

ST. MICHAEL, MINNESOTA
CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of St. Michael shall be designated as the Code of St. Michael, Minnesota, and may be so cited.

§ 10.02 RULES OF INTERPRETATION.

(A) Generally. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) Specific rules of interpretation. The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(1) AND or OR. Either conjunction shall include the other as if written “and/or,” whenever the context requires.

(2) Acts by assistants. When a statute, code provision, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(3) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) Definitions. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of St. Michael, Minnesota.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Wright County, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or

WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section.

Example: (Ord. 10, passed 5-13-60; Am. Ord. 20, passed 1-1-70; Am. Ord. 30, passed 1-1-80; Am. Ord. 40, passed 1-1-85)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute.

Example: (M.S. § 609.034) (Ord. 15, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(2) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Public records, see M.S. § 138.163 et seq.

§ 10.18 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.19 COPIES OF CODE.

Copies of this code shall be kept in the office of the City Administrator for public inspection and sale for a reasonable charge.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$1,000, imprisonment for a term not exceeding 90 days, or both. In either case, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person, firm or corporation who violates any provisions of this code which are stated to be a petty misdemeanor, shall upon conviction be subject to a fine not exceeding \$300.

(C) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation unless a penalty is specifically provided for such failure.

Statutory reference:

Misdemeanor and petty misdemeanor penalties, see M.S. § 609.02(3) and (4)(a)

Ordinance violations and penalties, see M.S. §§ 412.231 and 609.034

TITLE III: ADMINISTRATION

Chapter

- 30. CITY COUNCIL
- 31. CITY OFFICERS
- 32. FIRE DEPARTMENT
- 33. BOARDS AND COMMISSIONS
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- 37. PERSONNEL
- 38. ADMINISTRATIVE ENFORCEMENT
- 39. FEES FOR VARIOUS SERVICES

CHAPTER 30: CITY COUNCIL

Section

30.01 Salaries

Cross-reference:

Terms of office of Council Members and Mayor, see § 36.02

§ 30.01 SALARIES.

The salary of each Council Member and of the Mayor shall be as set from time to time by ordinance.

(Ord. 8, passed 11-3-53; Am. Ord. 58, passed 9-12-84; Am. Ord. 62, passed 12-8-87; Am. Ord. 67, passed 10-24-89; Am. Ord. 0602, passed 3-28-06)

CHAPTER 31: CITY OFFICERS

Section

31.01 Administrator

§ 31.01 ADMINISTRATOR.

(A) There is hereby established the position of City Administrator. The City Administrator is hereby appointed to be the Treasurer for the city and shall exercise all of the duties and responsibilities of a city treasurer as specified in M.S. Chapter 412 and elsewhere in the laws of the state and this code, as they may be amended from time to time.

(B) The City Administrator shall be the management officer of the city and shall be subject to the control and direction of the Mayor and the City Council, and pursuant to this position he or she shall perform the duties set forth in this section and all others as may be assigned to him or her by the City Council which are not inconsistent with Minnesota Statutes.

(C) The City Administrator shall be appointed by a majority vote of the City Council and shall serve at the pleasure of the City Council, except that, if requested, the City Council shall grant the City Administrator a public hearing within 30 days following notice of his or her removal. During the interim following such removal and prior to such hearing, the City Council may suspend the City Administrator by a majority vote, but shall continue his or her salary.

(D) The City Administrator shall be selected solely on the basis of his or her executive, administrative, and governmental qualifications with special reference to his or her actual experience in or his or her knowledge of accepted practices in respect to the duties of his or her office as described hereinafter.

(E) The City Administrator shall be responsible to the Mayor and the City Council for the proper administration of those affairs of the city assigned to his or her office, and under the control and direction of the Mayor and the City Council, he or she shall have the power and shall be required to:

(1) Supervise the administration of all departments and offices placed within his or her jurisdiction by this section or by subsequent action of the Mayor or City Council, including, but not limited to, the following: streets, water, sewer, parks, recreation, fire, civil defense, building and plumbing inspection, and city engineering. Such supervision shall include the making of administrative decisions affecting such departments and offices, and the employment and/or dismissal of personnel within his or her jurisdiction, subject to the review of the Mayor and unless otherwise provided by ordinance, code provision, statute, or city policy.

(2) Develop and issue all administrative rules, regulations, and procedures necessary to insure the proper functioning of all departments and offices within his or her jurisdiction. The rules, regulations, and procedures shall be consistent with Minnesota Statutes, city ordinances and code provisions, and City Council policies. The rules, regulations, and procedures shall be effective upon issuance and shall continue to be in effect until rescinded by the City Administrator or the express action of the Mayor or City Council.

(3) Coordinate the activities of and serve as an advisor to all elected and appointed officials of the city with particular reference to consultants, the Planning Commission, and the Fire Department.

(4) Prepare the budget annually and submit it to the City Council together with a message describing the important features of the budget; keep the City Council advised of the financial condition and future needs of the city and make recommendations as he or she may deem desirable; and purchase or supervise the purchase of all materials and equipment for which funds are provided in the budget and as directed by the City Council pursuant to the Purchasing Policy in effect at the time of such purchase.

(5) Attend all meetings of the City Council and other official bodies as directed, and take part in the discussion of all matters coming before the City Council. The City Administrator shall also represent the city at all official or semi-official functions as may be directed by the Council.

(6) In cooperation with the Council, see that all laws, ordinances, and code provisions are duly enforced and investigate all complaints in relation to matters concerning the administration of departments and offices within his or her jurisdiction, and whenever necessary shall make recommendations to the City Council for improvement of services.

(7) Perform such other duties as may be required by the Mayor and City Council and consistent with Minnesota Statutes and city ordinances and code provisions.

(F) The City Administrator shall furnish a surety bond to be approved by the City Council, the bond to be conditioned upon faithful performance of his or her duties. The bond premium shall be paid by the city.

(Ord. 26, passed 12-11-73; Am. Ord. 69, passed 1-23-90; Am. Ord. 0603, passed 5-23-06; Am. Ord. 1505, passed 8-25-15)

CHAPTER 32: FIRE DEPARTMENT

Section

Organization and Administration

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ORGANIZATION AND ADMINISTRATION

§ 32.01 ESTABLISHMENT OF FIRE DEPARTMENT.

There is hereby established the St. Michael Fire Department which shall be equipped with such apparatus and accessories as may be required from time to time to maintain efficiency.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.02 MEMBERSHIP.

(A) The Department shall consist of paid on-call firefighters and/or such paid firefighters as are employed by the city, as well as reserves. The number of such members shall be set by resolution of the City Council from time to time. All members of the Fire Department shall be employees of the city and appointed by the City Council.

(B) The membership of the Department shall consist of able-bodied individuals over the age of 18 who can read and write the English language

and can respond to the Fire Station within ten minutes time during their available hours. All members must pass a physical examination performed by a physician at a city-designated clinic, a drug test, background check, driving record check, satisfactorily complete the physical ability test and psychological testing, and comply with such further requirements as are imposed by the Fire Department Rules and Regulations, adopted from time to time by the Fire Department and/or the City Council pursuant to § 32.06.

(C) In addition to the membership as defined above, there shall be number of explorers selected in accordance with the rules and regulations of the St. Michael Fire Department.

(Ord. 19, passed 12-16-68; Am. Ord. 66, passed 6-28-88; Am. Ord. 0704, passed 10-23-07)

§ 32.03 OFFICERS.

Every three years, through a process outlined in the Rules and Regulations of the St. Michael Fire Department, the Chief shall select from its members who meet the qualifications and requirements of the City Council the following officers: an Assistant Chief, a District Chief, four Captains, and three Lieutenants. All officers so selected shall hold office for three years and until their successors have been duly selected, except that any one or all of them may be suspended by the Fire Chief and/or removed by the City Council for cause. See the Fire Department Rules and Regulations on Paid-on-Call Officer Appointments for full details on selection of Officers.

(Ord. 19, passed 12-16-68; Am. Ord. 66, passed 6-28-88; Am. Ord. 0704, passed 10-23-07)

§ 32.04 FIRE CHIEF.

The Chief shall be appointed by and accountable to the City Council for the proper functioning of the Fire Department and for the care and condition of all of the firefighting apparatus, equipment, and quarters used by the Department. He or she shall be subject to the direction of the City Council. Except as otherwise provided, he or she shall also be responsible for the enforcement of the provisions of this chapter and of the rules and regulations of the Department and shall report to the City Council any violations or infractions thereof which come to his or her attention. He or she shall work cooperatively with the City Administrator to prepare the annual budget in a timely manner.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.05 FIRE MARSHALL.

The office of Fire Marshall shall be held by a qualified individual as appointed by the City Council from time to time. The Fire Marshall shall be charged with the enforcement of all ordinances and code provisions aimed at fire prevention. The Fire Marshall shall have full authority to inspect, or cause to be inspected, all premises, and cause the abatement or removal of all fire hazards. Pursuant to such duty to cause to be inspected all premises, the Fire Marshall shall have the authority to obtain search warrants if the Fire Marshall determines search warrants are necessary to accomplish the inspection; provided, however, that the applicable constitutional requirements relating to the procurement of such search warrants in effect at the time of the inspections are met.

(Ord. 66, passed 6-28-88; Am. Ord. 0704, passed 10-23-07)

§ 32.06 RULES AND REGULATIONS.

(A) The members of the Fire Department, by a majority vote of the recorded membership, shall propose a code of rules and regulations to control, manage, and govern the Fire Department and to regulate its proceedings and business. The rules and regulations shall not conflict with this chapter or future ordinances or code provisions passed by the City Council.

(B) The proposed rules and regulations, or any changes therein, shall become effective only after approval by the City Council. Additional rules and regulations may be adopted by the City Council.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.07 SUSPENSION AND DISCHARGE.

Any member of the Fire Department may be temporarily suspended by the Chief and/or City Council without pay at any time such action is deemed necessary by the Chief or the City Council for the good of the Department. The City Council shall have the power to discharge members of the Fire Department for cause. All members of the Department when on duty or in the Fire Hall shall be accountable to the Chief for their conduct.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.08 RECORDS AND REPORTS.

The Chief shall keep a complete record of all fires and submit them to the State Fire Marshal's Office. The Chief shall submit to the City Council a quarterly report of all the fire activities that the Department responded to. The report shall include the alarm date, the street address, the alarm times, the incident type, the actions taken, the property information, the responding personnel and units, the officer in charge, ignition details, structure fire information and such other information as he or she may deem advisable or as may be required from time to time by the City Council or the State Insurance Department.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

OPERATIONS AND AUTHORITY

§ 32.20 TRAINING AND DRILLS.

The Chief shall call the entire Department together at least once every month for the purpose of meeting, training, maintenance of equipment and all other pertinent matters as deemed necessary by the Chief and/or officers.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.21 RAZING OF BUILDINGS.

The Chief, or in his or her absence the officer in charge, shall have the power to raze such buildings in the vicinity of a fire as the Chief or, in the Chief's absence the officer in charge may direct to prevent the communication of the fire to other buildings.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.22 POLICE POWERS OF FIRE DEPARTMENT.

The Chief, the Assistant Chief, the Fire Marshall, if other than the Chief or the Assistant Chief, or in their absence the officer in charge, shall have all necessary special police powers for the purpose of enforcing the provisions of this chapter.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

§ 32.23 FIRE SERVICE AGREEMENTS.

The Council may make agreements with other communities for supplying fire service to them and shall determine the rates and conditions under which such service shall be rendered.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07)

FIRE LANES

§ 32.35 FIRE LANES ESTABLISHED.

The Fire Chief and/or Fire Marshall is hereby authorized to order the establishment of fire lanes on public or private property as may be necessary in order that the travel of fire equipment may not be interfered with, and that access to fire hydrants or buildings may not be obstructed.

(Ord. 35, passed 4-11-78; Am. Ord. 0704, passed 10-23-07)

§ 32.36 SIGNS.

When a fire lane has been ordered to be established pursuant to § 32.35 it shall be marked by a sign consistent with international fire code standards. When the fire lane is on public property or a public right-of-way, the sign or signs shall be erected by the city, and when on private property, the sign or signs shall be erected at the private property owner's expense.

(Ord. 35, passed 4-11-78; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

§ 32.37 PARKING AND OBSTRUCTIONS.

After a sign has been erected in accordance with § 32.36, no person shall park a vehicle or otherwise occupy or obstruct the designated fire lane.

(Ord. 35, passed 4-11-78; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

§ 32.38 VIOLATIONS.

Any vehicle located in a fire lane is in violation of this subchapter. The vehicle shall be towed at the owner's expense.

(Ord. 35, passed 4-11-78; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

PROHIBITIONS AND RESTRICTIONS

§ 32.50 FIRE HAZARDS; INSPECTION AND ABATEMENT.

(A) The Chief of the Fire Department, or the Fire Marshall if an individual other than the Chief, is hereby required to cause inspection to be made of all buildings within the city from time to time, with the exception of those single and double dwellings used exclusively for residential purposes. Written notice shall be served upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found therein.

(B) Any person so served with an order to abate any fire hazard or hazards shall comply with said order and promptly notify the Chief. Written records shall be kept of all inspections.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

§ 32.51 DRIVING OVER FIRE HOSE.

No person shall drive any vehicle over a fire hose except upon specific orders from the Chief or a firefighter and then only with due caution.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

§ 32.52 PARKING NEAR FIRE STATION OR HYDRANT.

No person shall park any vehicle of any description or place any material or obstruction within 20 feet of the driveway to any fire station, or within 15 feet of any fire hydrant or fire cistern, nor park any vehicle within 300 feet of a fire.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

§ 32.53 FALSE ALARMS.

No person shall maliciously set off a fire alarm or falsely report a fire.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 5-23-07) Penalty, see § 32.99

§ 32.54 EQUIPMENT USE.

No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, destroy, take away, keep, or conceal any tool, appliance, or any other article used by the Fire Department.

(Ord. 19, passed 12-16-68; Am. Ord. 0704, passed 10-23-07) Penalty, see § 32.99

FIRE PROTECTION SYSTEMS

§ 32.60 FIRE PROTECTION AND EMERGENCY RESPONSE FEES.

Fees established. The City Council does hereby establish fees for the fire protection and/or emergency response services which are not otherwise specified by contract. The fees shall be established at a fixed rate for certain specified incidents and for actual costs incurred by the city in responding to the incident.

(A) Major emergency incident. For purposes of this section, major emergency incident is defined as:

- (1) A motor vehicle accident or fire, chemical/hazardous materials spill, commercial/multi-family structure fire, or other accident or incident;
- (2) Occurring within the City of St. Michael fire service area; and
- (3) To which the city responds with assistance from four or more other fire and emergency response agencies.

(B) Imposition of fees. The city shall charge the applicable fire protection and emergency response fees set forth in § 39.02 when the city responds to a major emergency incident. The fees shall be charged to whichever party is determined by the City Council to be responsible for the major emergency incident, such as the owner of the chemical/hazardous materials, the registered owner of the vehicle, or the owner of the facility where the major emergency incident occurred. All personnel and equipment provided by other fire departments pursuant to a mutual aid request of the City's Fire Department shall be billed according to the Wright County Fire Chiefs Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment in effect at the time of the major emergency incident.

(Ord. 1008, passed 12-28-10; Am. Ord. 1704, passed 10-24-17)

§ 32.61 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

FIRE PROTECTION SYSTEMS. Approved devices, equipment and systems or combinations of systems used to detect a fire, activate a fire alarm, extinguish or control a fire, control or manage smoke and products of a fire, or any combination thereof.

(Ord. 2102, passed 8-24-21)

§ 32.62 CODES AND STANDARD.

All fire protection systems shall be installed in full compliance with applicable provisions of this code including the building code, fire code and other national standards.

(Ord. 2102, passed 8-24-21)

§ 32.63 PERMITS REQUIRED.

Permits are required for the construction or installation of fire protection systems as set forth in sections 105.7.1, 105.7.4, 105.7.5 and 105.7.12 of the state fire code. Each person, intending to construct or install a fire protection system shall make application to the City Fire Marshal for a permit for that purpose and shall furnish a full description of the work together with such plans and specifications as may be required by the Fire Marshal. The application shall be made on forms provided by the Fire Marshal.

(Ord. 2102, passed 8-24-21)

§ 32.64 INSPECTION.

All fire protection systems installed under permit shall be inspected by the City Fire Marshal or City Building Official. Inspections shall be made during installation of the fire protection system and before closure or concealment. A final inspection and full operating test, with test results satisfactory to the Fire Marshal and Building Official, shall be made before approval of the system will be given by the city.

(Ord. 2102, passed 8-24-21)

§ 32.65 INSPECTIONS AND CORRECTIONS.

(A) All work done in installing, extending or altering a fire protection system shall conform to all applicable building and fire codes and shall be inspected by the Fire Marshal.

(B) The Fire Marshal may order work on a fire protection system to be corrected or altered if it is found to be defective, incomplete or not in accordance with applicable building and fire codes.

(C) Fire protection systems shall be inspected and tested at least annually by licensed fire protection contractors in accordance with the standards and procedures set forth in sections 105.7.1, 105.7.4, 105.7.5 and 105.7.12 of the state fire code, as may be amended. Contractors who perform inspections, testing and/or maintenance services on fire and life safety systems within the city are required to submit all compliant and noncompliant reports to the St. Michael Fire Department via a method approved by the Fire Marshal.

(Ord. 2102, passed 8-24-21)

§ 32.99 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be penalized as provided in § 10.99. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Am. Ord. 0704, passed 10-23-07)

CHAPTER 33: BOARDS AND COMMISSIONS

Section

Planning Commission

33.01 Establishment of Planning Commission

33.02 Composition; terms of office; compensation

33.03 Organization and operations

33.04 Powers and duties

PLANNING COMMISSION

§ 33.01 ESTABLISHMENT OF PLANNING COMMISSION.

A Planning Commission for the city is hereby established.

(Ord. 114, passed 1-13-98)

§ 33.02 COMPOSITION; TERMS OF OFFICE; COMPENSATION.

(A) The Planning Commission shall consist of seven members. The members shall be appointed by the City Council and may be removed by the City Council by a two-thirds vote of all the members of the City Council.

(B) Of the members of the Planning Commission when first appointed, two shall be appointed for a term of two years; three shall be appointed for a term of three years; and two shall be appointed for a term of four years. Their successors shall each be appointed for terms of four years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. Any vacancy which shall occur during the term of a commissioner may be filled by the City Council for the unexpired portion of the term. Every appointed member shall take an oath that the member will faithfully discharge the duties of the position. All members shall be compensated in an amount to be determined by the City Council from time to time.

(Ord. 114, passed 1-13-98; Am. Ord. 120, passed 2-9-99)

§ 33.03 ORGANIZATION AND OPERATIONS.

(A) The Planning Commission shall elect a Chairperson from among its appointed members to serve a term of one year. The Planning Commission may create and fill such other offices as it may determine.

(B) The Planning Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which records shall be a public record. On or before January 1 of each year, the Planning Commission shall submit to the City Council a report of its work during the preceding year and shall make such other reports to the City Council from time to time as the City Council may direct. Expenditures of the

Commission shall be within amounts appropriated for that purpose by the City Council.

(Ord. 114, passed 1-13-98)

§ 33.04 POWERS AND DUTIES.

The Planning Commission shall be the planning agency for the city. The Planning Commission shall have such powers and duties as set forth in M.S. §§ 462.351 through 462.364.

(Ord. 114, passed 1-13-98)

CHAPTER 34: FINANCE

Section

34.01 Audit of city's financial affairs

§ 34.01 AUDIT OF CITY'S FINANCIAL AFFAIRS.

Beginning with the year in which this section becomes effective, and each year thereafter, there shall be an audit of the city's financial affairs by the State Auditor or a public accountant in accordance with minimum auditing procedures prescribed by the State Auditor.

(Ord. 69, passed 1-23-90)

CHAPTER 35: EMERGENCY MANAGEMENT

Section

35.01 Purpose

35.02 Interpretation and effect

35.03 Definitions

35.04 Establishment of emergency management organization

35.05 Powers and duties of Director

35.06 Local emergencies

35.07 Emergency regulations

35.08 Participation in labor disputes or politics

35.99 Penalty

§ 35.01 PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds, or other natural causes, or from sabotage or

hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(B) To provide for the exercise of necessary powers during emergencies and disasters.

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

(D) To comply with the provisions of M.S. § 12.25, which require that each political subdivision of the state shall establish a local organization for emergency management.

§ 35.02 INTERPRETATION AND EFFECT.

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, the workers' compensation law, or any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

§ 35.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

EMERGENCY. An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical containment and evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" functions.

EMERGENCY MANAGEMENT FORCES. The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

EMERGENCY MANAGEMENT ORGANIZATION. The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

§ 35.04 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, hereinafter called the Director. The Director shall be appointed by the Mayor for an indefinite term and may be removed by him or her at any time. The Director shall serve with a salary and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the Mayor.

§ 35.05 POWERS AND DUTIES OF DIRECTOR.

(A) The Director, with the consent of the Mayor, shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political

subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions, subject to the approval of the Mayor.

(C) The Director shall prepare a Comprehensive Emergency Plan for the emergency preparedness of the city and shall present such Plan to the Council for its approval. When the Council has approved the Plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the Plan as approved. The Plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the Emergency Plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plans, the Director shall institute training programs and public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the

departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

§ 35.06 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Administrator.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or interjurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

§ 35.07 EMERGENCY REGULATIONS.

(A) Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations consistent with applicable federal or state law or regulations respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services; emergency health, fire, and safety regulations; drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Administrator. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulation and their availability for inspection at the City Administrator's Office shall be conspicuously posted at the front of the City Hall or other headquarters of the city or at such other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind any such regulation.

(C) The Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent such conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31 and notwithstanding any statutory provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 35.99

§ 35.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

§ 35.99 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor and shall be punished as provided in § 10.99.

CHAPTER 36: ELECTIONS

Section

36.01 Election day

36.02 Council and Mayor; terms of office

§ 36.01 ELECTION DAY.

The regular city election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year, beginning with the 1975 city election.

(Ord. 15, passed 8-2-60; Am. Ord. 24, passed 7-9-74)

§ 36.02 COUNCIL AND MAYOR; TERMS OF OFFICE.

Two Council Members shall be elected for four-year terms at each biennial city election commencing in 1975. The Mayor shall be elected for a two-year term at each such election.

(Ord. 24, passed 7-9-74)

CHAPTER 37: PERSONNEL

Section

37.01 Personnel policies adopted by reference

§ 37.01 PERSONNEL POLICIES ADOPTED BY REFERENCE.

The personnel policies of the city, as may be revised from time to time, are hereby adopted by reference and shall be treated as if set forth in full herein.

CHAPTER 38: ADMINISTRATIVE ENFORCEMENT

Section

38.01 Purpose and intent

38.02 Definitions

- 38.03 Administrative notices
- 38.04 Citation
- 38.05 Responding to citation; payment
- 38.06 Requesting a hearing
- 38.07 Hearing Officer
- 38.08 Appeal of Hearing Officer decision
- 38.09 Failure to pay
- 38.10 Subsequent violations

§ 38.01 PURPOSE AND INTENT.

Administrative enforcement procedures established pursuant to this chapter are intended to provide the city with an informal, cost-effective and more efficient alternative to criminal prosecution of civil litigation for certain violations of the city code. The city retains the right to enforce provisions of this code by bringing criminal charges or commencing civil litigation in any case where the city determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the city and finds that such a process is a legitimate and necessary alternative method of enforcement of code violations.

(Ord. 0317, passed 12-23-03)

§ 38.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE COMPLIANCE OFFICER. Any officer of the Wright County Sheriff's Department or any employee of the city who has received official authority by the City Council to enforce the city code.

CODE OFFENSE. A violation of any section, subdivision, paragraph or provision of the city code and is subject to a civil penalty determined according to a schedule adopted by resolution of the City Council from time to time and payable directly to the City Treasurer. Each day the violation exists constitutes a separate CODE OFFENSE.

(Ord. 0317, passed 12-23-03)

§ 38.03 ADMINISTRATIVE NOTICE.

A Code Compliance Officer may issue, either in person or by United States first class mail, an administrative notice to any person suspect or known to have committed a code offense and/or to the owner of property upon which a code offense is being committed. The administrative notice shall identify the code offense, the location in which the code offense occurred or is occurring, and the recommended corrective action for the code offense. The administrative notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, up to 15 days to correct or abate the code offense. If the alleged violator and/or owner upon which a code offense is being committed is unable to correct or abate the code offense within the prescribed time, he or she may request an extension from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall specifically state the date of expiration. If the code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time, the Code Compliance Officer may issue a citation, as provided below.

(Ord. 0317, passed 12-23-03)

§ 38.04 CITATION.

A Code Compliance Officer is authorized to issue a citation upon the belief that a code offense has occurred, whether or not an administrative notice has first been issued in regard to the code offense. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail. The citation shall state the nature of the code offense, the time and date the code offense occurred, the civil penalty applicable to that code offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a Hearing Officer to contest the citation.

(Ord. 0317, passed 12-23-03)

§ 38.05 RESPONDING TO CITATION; PAYMENT.

Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within 15 days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in this section. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within

the prescribed 15 days. Payment of the civil penalty shall be deemed to be an admission of the code offense.

(Ord. 0317, passed 12-23-03)

§ 38.06 REQUESTING A HEARING.

Any person contesting a citation issued pursuant to this chapter may, within 15 days of the time of issuance of the citation, request a hearing before a Hearing Officer. Any request for a hearing before a Hearing Officer shall be made in writing on a form provided by the city for such a request and either delivered personally to the city at City Hall or mailed to the city by United States first class mail, postage prepaid and postmarked within the prescribed 15 days. The hearing shall be held at City Hall within 30 days of the date the city received a timely written notice that a hearing has been requested.

(Ord. 0317, passed 12-23-03)

§ 38.07 HEARING OFFICER.

The City Council shall by resolution from time to time appoint a list of persons authorized to act as a Hearing Officer. The Hearing Officer is authorized to conduct an informal hearing to determine if a code offense has occurred. The Hearing Officer may be compensated by the city for such hearings and related findings. The Hearing Officer shall have the authority to uphold or dismiss the citation or reduce or waive the civil penalty imposed upon such terms and conditions as the Hearing Officer shall determine. The Hearing Officer's decision shall be made in writing on a form provided by the city for such purpose. The Hearing Officer's decision is final, except as provided in this chapter for appealing the Hearing Officer's decision in limited cases to the City Council.

(Ord. 0317, passed 12-23-03)

§ 38.08 APPEAL OF HEARING OFFICER DECISION.

(A) The Hearing Officer's decision shall be applicable to the City Council only for the following matters:

(1) An alleged failure to obtain a required permit (such as, without limitation, a conditional use permit), license (such as, without limitation, a liquor license), or other approval from the City Council as required by the city code;

(2) An alleged violation of a permit (such as, without limitation, a conditional use permit), license (such as, without limitation, a liquor license), other approval, or the conditions attached to the permit, license, or approval, that was issued by the City Council; or

(3) An alleged violation of regulations governing a person or entity who has received a license issued by the City Council.

(B) An appeal to the City Council of the Hearing Officer's decision must be made in writing on a form provided by the city for such an appeal and must be served on the City Clerk by United States first class mail, postage prepaid, within ten days after the date of the Hearing Officer's decision.

(C) A timely appeal will be heard by the City Council after a notice of hearing is served by the city upon the appellant in person or by certified mail at least ten days in advance of the date of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.

(D) The City Council shall consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The City Council is not bound by the Hearing Officer's decision, but may adopt all or part of the Hearing Officer's decision. The City Council's decision may be vowed upon and given at the hearing or may be given in writing within 15 days of the hearing.

(Ord. 0317, passed 12-23-03)

§ 38.09 FAILURE TO PAY.

(A) In the event a person charged with a code offense fails to pay the civil penalty and correct or abate the code offense for which a citation was issued within the prescribed time, a late charge of 15% shall be imposed thereon for each seven days the civil penalty remains unpaid and the code offense remains uncorrected or unabated beyond the due date.

(B) An unpaid civil penalty and accrued late charges will constitute a personal obligation of the person to whom the citation was issued and the city shall have the right to collect such unpaid civil penalty and accrued late charges, together with the city's costs and reasonable attorneys, in a criminal or civil proceeding.

(C) Pursuant to M.S. § 429.101 and M.S. § 514.67, as they may be amended from time to time, and other applicable law, a lien in the amount of the civil penalty and accrued late charges may be assessed quarterly or annually against the property where the code offense occurred and collected in the same manner as taxes. Any such assessment shall not

preclude the city from issuing additional citations for a continuing code offense.

(D) The city may suspend or revoke a license or permit or other approval associated with the code offense if the civil penalty and accrued late charges are not timely paid.

(Ord. 0317, passed 12-23-03)

§ 38.10 SUBSEQUENT VIOLATIONS.

If a second citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 25% over the scheduled civil penalty amount. If a third citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 50% over the scheduled civil penalty amount. If a fourth citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 100% over the scheduled civil penalty amount.

(Ord. 0317, passed 12-23-03)

CHAPTER 39: FEES FOR VARIOUS SERVICES

Section

39.01 Authorization

39.02 Fee schedule

§ 39.01 AUTHORIZATION.

The city is hereby authorized to impose fees, rates, or charges and the same shall be enumerated in this chapter or elsewhere in this code. In the event of any conflict between this chapter and any other provision of the code, this chapter shall control.

(Ord. 0701, passed 1-9-07)

§ 39.02 FEE SCHEDULE.

The following fees shall become effective January 1, 2021, and shall be subject to amendment by ordinance as deemed necessary from time to time by the City Council.

YEAR 2022

BASE FEE

NOTES

SAC (San. Sewer Access Charge) new const.

Based on Resid. Equivalency Units (minimum 1 REU/building)

Single family, twin home, town home, comm/ind/pub-inst

\$5,631

Apartments or senior housing

\$4,504

St. Michael hookups of buildings existing prior to 1997

\$1,719

Hanover/Rockford Twp hookups of buildings existing prior to 1998

\$2,565

WAC - Water Access Charge

\$2,807

*City's Share - single family, twin home, town home/comm/ind/P-I

\$806

*City's Share - apartments and senior housing

\$644

*JWB's Share

\$2,001

Sanitary Sewer Trunk Connection Fee per REU

Single Family

\$2,675

Twin Home

\$2,675

Town Home (3 or more attached)

\$2,609

Apartment

\$2,140

Senior Housing

\$2,140

Commercial/Industrial/Public-Institutional**

\$2,675

****Minimum 1 REU per Developable Acre to be paid at time of platting with remaining REUs calculated and paid at the time of building permit**

Water Trunk Connection Fee per REU

Single Family

\$1,063

Twin Home

\$1,063

Town Home (3 or more attached)

\$1,063

Apartment

\$851

Senior Housing

\$851

Commercial/Industrial/Public-Institutional**

\$1,063

****Minimum 1 REU per Developable Acre to be paid at time of platting with remaining REUs calculated and paid at the time of building permit**

Stormwater Trunk Connection Fee

Single Family per REU

\$2,989

Twin Home per REU

\$2,840

Town Home (3 or more attached) per REU

\$1,611

Apartment per REU

\$620

Senior Housing per REU

\$371

Commercial/Industrial/Public-Institutional per usable square footage

\$0.13

Existing Lots/Homes

241 Sanitary Sewer Trunk Connection Fee per REU

\$2,439.76

241 Sanitary Sewer Trunk Assessment per acre

\$836.22

241 Water Trunk Connection Fee per REU

\$1,248.59

NW Sanitary Sewer Trunk Connection Fee per REU

\$1,949.28

NW Sanitary Sewer Trunk Assessment per acre
\$1,949.28

SW Sanitary Sewer Trunk Connection Fee per REU
\$1,266.98

SW Sanitary Sewer Trunk Assessment per acre
\$2,311.12

Lander/Hanover Interceptor San. Trunk Con. Fee per REU

Base/Lander
\$234.34

CSAH 34
\$881.60

cumulative

Lake Area Trunk 1
\$1,446.17

cumulative

Lake Area Trunk 2
\$1,959.62

cumulative

Lake Area Trunk 3
\$2,623.55

cumulative

Hanover Interceptor Sanitary Trunk Assessment per acre
\$683.46

each

Grinder Pump Inspection Fees

\$736.29

Collector Road Lateral Assessment/Payment In- Lieu*

Per Foot/Each Side

Residential, Single Family

\$165.58

Residential, Multiple Family

\$238.73

Commercial/Industrial/Public-Institutional

\$238.73

*does not include sanitary sewer or water costs

Park Dedication Fees

Residential

15% of land or \$3,200 per unit

Residential - Senior Apartments

15% of land or \$1,600 per unit

Commercial Uses

5% of land or \$1,000 per acre

Industrial Uses

5% of land or \$1,000 per acre

Public/Semi-Public/Institutional Uses

5% of land or \$1,000 per acre

*Net Area: For purposes of determining park dedication, net area shall mean the area contained within: 1) existing or city approved public right-of-ways; and 2) portions of land that lie below the ordinary high water level of a lake or river; and/or existing or proposed stormwater ponds

O&M Residential Water Fees

Base Rate-No Minimum

\$5.46

monthly

~City's Share

\$1.83

~JWB's Share

\$3.63

*0-3,500 Gallons

\$3.61

per thousand

~City's Share

\$1.43

~JWB's Share

\$2.18

*3,501-6,500 Gallons

\$3.91

per thousand

~City's Share

\$1.45

~JWB's Share

\$2.46

*6,501-11,500 Gallons

\$4.13

per thousand

~City's Share

\$1.45

~JWB's Share

\$2.68

*11,501-16,500 Gallons

\$4.43

per thousand

~City's Share

\$1.47

~JWB's Share

\$2.96

*Each 1,000 Gallons thereafter

\$4.77

per thousand

~City's Share

\$1.48

~JWB's Share

\$3.29

O&M Commercial Water Fees and Irrigation Only Fees

3/4 inch meter

\$4.50

monthly minimum

1 inch meter

\$7.22

1.5 inch meter

\$13.51

2 inch meter

\$54.10

3 inch meter

\$112.72

4 inch meter

\$125.45

6 inch meter

\$158.69

8 inch meter

\$174.59

Commodity Rate per 1,000 gallons

~City's Share - Commercial and Irrigation

\$1.43

per thousand

~JWB's Share - Irrigation Only

\$2.88

~JWB's Share - Commercial

\$2.54

O&M Sewer Fees

0-5,000 Gallons

\$25.17

monthly minimum

Each 1,000 Gallons Thereafter

\$4.40

per thousand

Basic Sewer without Water

\$25.17

monthly minimum

Albertville Area Collection System - Monthly Chg

\$15

Lakes Area Collection System - Monthly Chg

\$5.71

Grinder Pump - Monthly Maintenance Charge

\$20

Noncompliance ss 51.75 - Per Quarter+A44

\$50

Advanced disposal leachate contract

\$0.0318

per gallon

Other Fees

Storm Water Utility Charge - Per REF/month

\$2

Water Meter-Residential

\$450

Pressure Reducing Valve

\$250

Water Inspection

\$100

Sewer Inspection

\$100

Turn on/Shut-off Fee

\$35

Building Permit Fees

Basic Building Permit Fees (unless noted below)

Based on permit valuation

Plan Review Fee

Decks

Based on permit valuation

(permit valuation)

Detached Garages/Outbuildings/Basement Finish

(permit valuation)

3-Season and Screen Porches

(permit valuation)

Retaining Walls (over 4 ft. high)

(permit valuation)

Miscellaneous Minimum Building Fees

\$75

Fire Suppression Systems - Minimum Per Permit

\$150

Additional Inspections (after required)

\$65/hour

Septic Permit

\$400

Residential Fuel-Gas Piping Fee

\$75

(or valuation, whichever is greater)

Residential Heating, Ventilation & A/C

\$75

(or valuation, whichever is greater)

Residential Plumbing

\$75

(for 1st fixture +\$8/addn fixture)

Commercial Fuel-Gas Piping Fee

\$175

(or valuation, whichever is greater)

Commercial Heating, Ventilation & A/C

\$175

(or valuation, whichever is greater)

Commercial Plumbing

\$175

(or valuation, whichever is greater)

Fences (over 6 ft. high)

\$75

(or valuation, whichever is greater)

Fire Place/Wood Stoves

\$75

(or valuation, whichever is greater)

Re-roof (residential)

\$175

(or valuation, whichever is greater)

Re-roof (commercial)

\$175

(or valuation, whichever is greater)

Residing (residential)

\$175

(or valuation, whichever is greater)

Residing (commercial)

\$175

(or valuation, whichever is greater)

Swimming Pools

\$90

(or valuation, whichever is greater)

Window Installation

\$90

(or valuation, whichever is greater)

Commercial Window Installation

\$150

(or valuation, whichever is greater)

Moving Structures In

\$200

(or valuation, whichever is greater)

Moving Building Out/Demo

\$200

(or valuation, whichever is greater)

Gas Fitter Processing Fee

\$35

(annual fee)

General Contractor Verification

\$5

Permit Transfer Fee (Building)

\$200

Permit Transfer Fee (Plumbing, HVAC, Gas)

\$50

Vacant Property Registration Fee

\$100

Tenant Occupancy Permit - (Commercial/Industrial)

\$100

Permit Refund Policy

100% permit fee if requested within 180 days of issuance; no refund of plan review or state surcharge (if already paid to the state)

Temporary CO Fee

\$100

No permit investigation fee (fine)

Double permit fee

Fire and Emergency Response Related Fees

Chemical/hazardous material spills

\$500

(for first hour, \$200 per hour thereafter)

Motor vehicle fires/accidents

\$500

(for first hour, \$200 per hour thereafter)

Engine

\$275

(up to 4 personnel)

Ladder/aerial

\$275

(up to 4 personnel)

Water tender

\$200

(up to 2 personnel)

Heavy rescue/rescue/ambulance

\$185

(up to 2 personnel)

Command vehicle/utility truck/grass truck

\$85

(up to 2 personnel)

ATV/UTV with water tank

\$50

(up to 2 personnel)

Extra personnel

\$15/hr

Special response unit

\$500

Fire investigation team

\$300

City Center Room Usage Fees

Room Rates

J&B Group Conference Room (resident)

\$7.50

J&B Group Conference Room (non-resident)

\$12.50

MidWestOne Conference Room (resident)

\$7.50

MidWestOne Conference Room (non-resident)

\$12.50

Craft Room (resident)

\$12.50

Craft Room (non-resident)

\$20

Gries Lenhardt Allen Library Room (resident)

\$17.50

Gries Lenhardt Allen Library Room (non- resident)

\$22.50

Crow River Senior Center (resident)

\$25

Crow River Senior Center (non-resident)

\$35

Frankfort Station (resident)

\$25

Frankfort Station (non-resident)

\$35

City Center Room Usage Fees

Chamber Room Weekday Rates

Full Chamber Room (resident)

Full Chamber Room (non-resident)

Half Chamber Room (resident)

Half Chamber Room (non-resident)

Chamber Room Weekend Rates

Full Chamber Room (resident)

Full Chamber Room (non-resident)

Cleaning Service - Chamber Room (Non-wedding)

Cleaning Service Fee - Alcohol Wedding Event

Cleaning Service Fee - All other rooms

Cleaning Service Fee - Biohazard (including vomit/fecal)

Kitchen stove/oven cleaning

Audio/Video Charge 0-4 hours

Security Service Fee

Wedding Packages Residents

Friday

Saturday

Wedding Packages Non-Residents

Friday

Saturday

Recreation Center Rental
Pavilion/Concession Sales
Tennis Court Rental
Field Rental

Open park space/misc.

Private Party Field Rental

Adult Sports Leagues

Summer/Spring (Apr-Aug)

Fall/Winter (Sept-Feb)

Note: Adult Sports include Baseball, Softball, Soccer, Lacrosse, Kickball, Hockey, Broom
Tournaments

Youth Sports

Baseball/Softball/Soccer/etc.

Youth Soccer Tournaments - Fri-Sun

Youth Baseball/Softball/etc.-Fri-Sun

Tournament Cleaning Fee - Youth or Adult

Town Center Park Rates

St. Michael Lions Pavilion - TCP resident

St. Michael Lions Pavilion - TCP non-resident

TCP Shelter A (playground side) resident

TCP Shelter A (playground side) non-resident

TCP Shelter B (splash pad side) resident

TCP Shelter B (splash pad side) non-resident

Open park space/misc.

Electrical fee (to connect to city building electrical)

Penalty fee (clean or garbage issues)

Time overage

Planning Application Fees
Temporary Sign Annual Permit
Administrative Approval for Zoning Requests
Rezoning
Preliminary Plat
Final Plat
One-in-forty Lot Split
Minor or Corrective Subdivision (Max 3 lots)
Minimum Lot Line Adjustment/Combination
Planned Unit Development (PUD)
Comprehensive Plan Amendment
Variance
Appeals
Conditional Use Permit
Interim/Special Use Permit
Interim/Special Use Permit - renewal
Site Plan Review
Minor Site Plan Review
Dynamic Display Sign Planning Review
Easement Vacation
Easement Creation
Mining/Excavation
Temporary Special Event Permit
Zoning Letter
Zoning Permit - Swimming Pool
Security Reduction Fee (Adm/Review)
Special Meeting (Council and/or Planning)

Wetland Reviews

Note: Some fees may include more than 1 review

Administrative Enforcement Civil Penalty Fees

Class A Offenses

Class B Offenses

Class C Offenses

Increased penalty fees for subsequent violations

YEAR 2022

BASE FEE

NOTES

Engineering Fees

Grading Permit

\$350

(+ \$50 per acre beyond 1 acre/plus escrow)

Right-of-Way Permit

\$150

Administration fee includes up to 2 street or blvd excavations

\$40

Each additional street excavation per hole

\$20

Each additional blvd. excavation per hole

Small cell wireless facility

\$1,500

Per location

Electric Franchise Fees

Residential

\$3.50

per premise per month

SM C & I - Non-Dem

\$2.50

per premise per month

SM C& I - Demand

\$2.50

per premise per month

Large C & I

\$10

per premise per month

Public Street Ltg

\$10

per premise per month

Muni Pumping - N/D

\$2.50

per premise per month

Muni Pumping - Dem

\$10

per premise per month

Liquor Fees

3.2 Malt Beverage (Beer) Off-Sale

3.2 Malt Beverage (Beer) On-Sale

Minimum 2:00 A.M. Closing Fee

Liquor Off-Sale

Drink Set-Up

Wine On-Sale

Sunday

Strong Beer/Wine License

Taproom

Brewpub

Liquor On-Sale, Club

Liquor On-Sale

Copy and Map Fees

B & W (11 x 17 or smaller)

Color (11 x 17 or smaller)

Copies larger than 11 x 17

Fax service

Flash Drive

Topographic Data (electronic file)

Aerial & Topo Map (up to 11 x 17)

County Map

Solid Waste Collector & Recycling Fees
Garbage Hauler Application Fee

Recycling fee (38 gal cart and service - minimum charge)
Recycling Fee (65 gal cart and service)
Recycling Fee (95 gal cart and service)
Recycling Cart Exchange Fee (any size)
Recycling Cart Replacement (damaged/lost)
Miscellaneous Fees
Assessment Certification Fee
Assessment Search
Charitable Gambling Premises Permit Invest Fee
Donation Boxes
Filing Fee - Mayor/Council position
Impound Release Fee
Kennel License
Late Licenses Penalty Fee
Late Fee on Unpaid Invoices
Mobile Food Unit License Fee
NSF Checks

Miscellaneous Fees
Pawn Shop Application Fee
Pawn Shop Annual License Fee
Peddler and Transient Merchant License
Replacement Compost/Brush Facility Access Card Fee

Scheduled Street Sweeping
Unscheduled Street Sweeping
Vacant Property Maintenance
Vactor truck

(Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0706, passed 11-27-07; Am. Ord. 0806, passed 6-24-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 0808, passed 12-9-08; Am. Ord. 0901, passed 2-10-09; Am. Ord. 0904, passed 11-24-09; Am. Ord. 1006, passed 9-28-10; Am. Ord. 1007, passed 12-28-10; Am. Ord. 1008, passed 12-28-10; Am. Ord. 1101, passed 1-11-11; Am. Ord. 1108, passed 11-22-11; Am. Ord. 1202, passed 12-18-12; Am. Ord. 1301, passed 12-17-13; Am. Ord. 1408, passed 12-23-14; Am. Ord. 1508, passed 12-22-15; Am. Ord. 1609, passed 12-27-16; Am. Ord. 1701, passed 2-14-17; Am. Ord. 1707, passed 12-26-17; Am. Ord. 1805, passed 9-25-18; Am. Ord. 1808, passed 12-18-18; Am. Ord. 1903, passed 6-25-19; Am. Ord. 1916, passed 12-17-19; Am. Ord. 2005, passed 12-22-20; Am. Ord. 2006, passed 12-22-20; Am. Ord. 2101, passed 6-22-21; Am. Ord. 2104, passed 12-28-21; Am. Ord. 2201, passed 1-11-22)

TITLE V: PUBLIC WORKS

Chapter

50. WATER

51. SEWERS

CHAPTER 50: WATER

Section

General Provisions

- 50.01 Permit for Joint Powers Board service
- 50.02 Connections
- 50.03 Meters and meter readings
- 50.04 Discontinuance of service
- 50.05 Rates and billing
- 50.06 Lien against property with unpaid water service line charges
- 50.07 Responsibility of service line

Prohibitions and Restrictions

50.15 Sprinkling bans and restricted water use

50.16 Damaging meters

50.17 Taking water without authority

50.99 Penalty

GENERAL PROVISIONS

§ 50.01 PERMIT FOR JOINT POWERS BOARD SERVICE.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

JOINT WATER BOARD (JWB). A joint water supply for the communities of Albertville, Hanover, and Saint Michael.

PERSON. Any individual, group of individuals, partnership, corporation, or entity, other than a political subdivision that is a member of the Joint Water Board or any employee, officer, agent, or representative of the Joint Water Board or any of its members acting in the line of duty and/or on behalf of the Board and/or its members.

WATER or JOINT WATER BOARD WATER. Water obtained from a hydrant or other water dispensing device owned and/or operated by the Joint Water Board or the city that is not controlled and/or operated by a Joint Water Board customer.

(B) Joint Water Board water may be obtained subject to the following:

(1) Any person desiring to take, use, or obtain Joint Water Board water shall make application for a water permit to the Joint Water Board on a form to be provided by the Joint Water Board.

(2) No water may be obtained unless a permit has been acquired therefor from the Joint Water Board. No permit shall be issued until the applicant submits the required application to the Joint Water Board.

(3) No person shall obtain water from the Joint Water Board at any source other than the Pumphouse hydrant located at 11100 50th Street, N.E., Albertville, Minnesota, unless otherwise specified on the permit. Water may only be obtained from the Pumphouse hydrant when a back flow valve provided by the Joint Water Board is properly installed and used.

(4) When a specified hydrant is permitted other than that which is located at the pumphouse, a hydrant meter and backflow prevention device must be used. A hydrant meter and backflow preventer can be rented from the JWB office. If a customer provides the BFP device and/or hydrant meter, a JWB representative must approve.

(5) Permits for JWB water use are subject to all applicable fees, as established from time to time by the JWB.

(C) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the punishment provided for in § 50.99 and shall also reimburse the Joint Water Board for all costs incurred in remedying damage, including, but not limited to, contamination and "brown water" resulting from the violation. Each unauthorized taking of water shall constitute a separate offense. Conviction of a violation of this section shall not preclude the Joint Water Board or this political subdivision from pursuing any other recourse available at law.

(Ord. 82, passed 9-8-92) Penalty, see § 50.99

§ 50.02 CONNECTIONS.

Unless special permission is granted in writing by the Council, every premises served by any utility owned by the municipality shall have a separate meter. All service connections shall be made and installed according to regulations established by the city and JWB, which may be modified from time to time.

(Ord. 11, passed 4-3-56) Penalty, see § 50.99

§ 50.03 METERS AND METER READINGS.

Every customer shall purchase and install a JWB designated meter. Meters shall be maintained and replaced as needed by the Water Department. For the purpose of reading meters, duly authorized employees of the Water Department of this city shall have authority to legally enter upon any premises at a reasonable hour. Each customer shall read their own meter quarterly and submit the reading to the designated location by the due date.

(Ord. 11, passed 4-3-56)

§ 50.04 DISCONTINUANCE OF SERVICE.

The municipality reserves the right to discontinue service of water without notice when the same is necessary in the repair of the system, or any part thereof. Service may be discontinued for the nonpayment of bills after reasonable notice.

(Ord. 11, passed 4-3-56)

§ 50.05 RATES AND BILLING.

Water bills shall be payable quarterly by the date due specified on the bill. Rates for water used for each quarter is calculated by using the meter supplying each service. Water sold shall be measured by meters, but where necessary a flat rate of not less than the minimum charge may be established by the Council and JWB. All new customers must notify the billing office upon change of billing account information and to schedule a final meter reading. Similarly, all customers moving out of the system shall notify the billing office and provide forwarding information for final billing.

(Ord. 11, passed 4-3-56)

§ 50.06 LIEN AGAINST PROPERTY WITH UNPAID WATER SERVICE LINE CHARGES.

(A) Special assessment lien. Pursuant to the authority of M.S. § 429.101(1)(d) as it may be amended from time to time, all property which benefits from the installation of water service lines shall be subject to a special assessment lien for delinquent and unpaid charges associated with the installation of the water service lines together with interest thereon, as set forth in divisions (B) and (C) of this section.

(B) Procedure. A bill for the charges associated with the installation of a water service line benefitting a property shall be sent by the city to the owner of record of the property benefitted, at the address contained in the city records. Any bill not paid within 30 days after mailing by the city shall be deemed to be delinquent. Thereafter, the delinquent water service charge shall be certified to the City Clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties involved. The assessment roll shall be delivered to the City Council for adoption on or before November 1 of each year. Upon such adoption, the City Clerk shall certify the assessment roll to the County Auditor for collection along with taxes.

(C) Interest charges. The City Council may, by resolution, determine and impose an interest charge to be levied on the outstanding balance of any unpaid water service line charge on November 1 of any year. Interest shall

accrue from the date the water service line charge is certified to the County Auditor until paid in full. Interest may be collected along with the water service line charge pursuant to division (B) of this section.

(Ord. 118, passed 11-10-98)

§ 50.07 RESPONSIBILITY OF SERVICE LINE.

The water service line from the curb stop is owned by and shall be maintained by the owner of the property serviced by such service line. The property owner must bear the cost of installing the water service line to the water main between the building and the water main service stub; if no stub is present, the property owner is responsible for connecting to the main in a location determined by the city. The property owner is also responsible for all maintenance and repairs to the water service line between the curb stop and the building being served. The owner shall defend, indemnify, and hold harmless the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building water service line.

(Ord. 1603, passed 3-8-16; Am. Ord. 2103, passed 12-14-21)

PROHIBITIONS AND RESTRICTIONS

§ 50.15 SPRINKLING BANS AND RESTRICTED WATER USE.

(A) In case of emergency or water supply shortage, as determined by the Joint Water Board, the City Council or Joint Water Board may, by resolution, limit the times and hours during which water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. New sod and/or seeding is exempt from these restrictions unless there is determined to be a water shortage that is a threat to health and safety.

(B) The City Council shall require compliance with any or all of these restrictions or any modifications of or additions to the restrictions contained herein, whatever is deemed necessary by the Joint Water Board and when directed to do so by the Board.

(C) After publication of the resolution, any person violating the terms and conditions of the resolution and this section shall be penalized as provided in § 50.99.

(D) The Joint Water Board may shut off water at the street following the third violation until such time as the property owner complies with the restrictions. A shut-off and turn-on fee will be added to the penalties.

(Ord. 33, passed 6-14-77; Am. Ord. 97, passed 3-26-96) Penalty, see § 50.99

§ 50.16 DAMAGING METERS.

No person shall damage or knowingly or negligently permit damage to be done to a water meter on his or her premises or elsewhere. Any person damaging any such meter or knowingly or negligently permitting the same to be damaged shall pay all costs of making the required repairs to said meters upon demand therefor by the city. In addition, any person damaging any such meter or knowingly permitting the same to be damaged shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in § 50.99.

(Ord. 10, passed 4-2-56) Penalty, see § 50.99

§ 50.17 TAKING WATER WITHOUT AUTHORITY.

It is hereby declared a misdemeanor punishable as provided in § 50.99 for any person, firm, or corporation to take any service described herein without proper authority therefor.

(Ord. 11, passed 4-3-56) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be penalized as provided in § 10.99

(B) Whoever violates § 50.15 shall be subject to a fine, which is established by the city and JWB and may be modified from time to time for each day of violation. This fine shall then be added to the customer's next water bill, and any customer who wishes to challenge this charge shall be granted a public hearing to determine "just cause."

(Ord. 33, passed 6-14-77; Am. Ord. 97, passed 3-26-96)

(C) Whoever violates § 50.16 or § 50.17 shall be punished by a fine of not to exceed \$100 or by imprisonment for not to exceed 90 days.

(Ord. 10, passed 4-2-56)

(D) Whoever violates § 50.01 (unauthorized hydrant use) shall be subject to a fine per violation as set from time to time by the Joint Water Board.

CHAPTER 51: SEWERS

Section

General Provisions

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- 51.02 Required use of sewers
- 51.03 Subsurface sewage treatment systems (SSTS)

Building Sewers and Connections

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- 51.16 Responsibility of service line
- 51.17 Building sewers
- 51.18 Connections
- 51.19 Excavations
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Use of Treatment Facilities

- 51.30 Storm water, non-contact cooling water, and the like
- 51.31 Discharges; prohibited wastes and waters
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- 51.38 Tests and analyses
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- 51.41 Repair and maintenance of connections
- 51.42 Motor vehicle washing and service facilities
- 51.43 Liability for damage to sewer system
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Prohibitions

51.55 Damage to treatment facilities

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51.65 Sewer service charge system (SSCS)

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51.67 Administration of charge system and fund

Storm Water Disposal

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Cross-reference:

Adoption of state individual sewage treatment system standards, see § 155.053

GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33 USC 1251 et seq.

ASTM. American Society for Testing Materials.

AUTHORITY. The City of St. Michael, or its authorized representative.

BASEMENT DRAINS. Any and all catch basins, drain pipes, tiles, or other devices laid in, under, around, or outside any basement or foundation of any structures, to collect, carry and prevent, surface, seeping or percolating

waters, away and from the foundation or out of the basement of any such buildings or structures in the city; but it shall not be construed to include any drain whose purpose is to merely drain sanitary sewage.

BIOCHEMICAL OXYGEN DEMAND (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C and as expressed in terms of milligrams per liter (mg/l).

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten feet outside of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

CISTERN. Any structural receptacle located in basements or above or below the ground in which drain or other waters are stored for which persons have domestic or other uses.

CITY. The area within the corporate boundaries of the City of St. Michael as presently established or as amended by ordinance or other legal action at a future time. The term CITY when used herein may also be used to refer to the City Council and its authorized representative.

COD or CHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

CONTROL MANHOLE. A structure specifically constructed for the purpose of measuring flow and sampling of wastes.

DEBT SERVICE CHARGE. A charge to users of the wastewater treatment facility for the purpose of repaying capital costs.

EASEMENT. An acquired legal right for the specific use of land owned by others.

EQUIVALENT RESIDENTIAL UNIT (ERU). A unit of wastewater volume of 275 gallons per day at a strength not greater than NDSW.

FECAL COLIFORM. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

FLOATABLE OIL. Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

GARBAGE. Animal or vegetable waste resulting from the handling, preparation, cooking, and serving of food.

INCOMPATIBLE POLLUTANT. Any pollutant that is not defined as a compatible pollutant, including nonbiodegradable dissolved solids.

INDUSTRIAL USER.

(1) Any entity as defined in the Standard Industrial Classification Manual (latest edition), as categorized below, that discharges wastewater to the sewer:

- (a) Division A: Agriculture, forestry, and fishing;
- (b) Division B: Mining;
- (c) Division D: Manufacturing;
- (d) Division E: Transportation, communications, electric, gas, and sanitary sewers;
- (e) Division I: Services.

(2) Any user whose discharges, singly or by interaction with other wastes, wastewaters which:

- (a) Contaminate the sludge of the wastewater treatment system;
- (b) Injure or interfere with the treatment process;
- (c) Create a public nuisance or hazard;
- (d) Have an adverse effect on the waters receiving wastewater treatment plant discharges;
- (e) Exceed NDSW limitations;
- (f) Exceed normal residential unit volumes of wastewater.

INDUSTRIAL WASTE. Gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, and processing of natural resources, as distinct from residential or normal domestic strength wastes.

INDUSTRY. Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial

Classification Manual, latest edition, categorized in Divisions A, B, D, E, and I.

INFILTRATION/INFLOW (I/I). Waste other than wastewater that enters the sewer system from the ground or from surface runoff, as defined in Minnesota Rules.

INTERFERENCE. The inhibition or disruption of the city's wastewater treatment facilities, processes, or operations which causes or significantly contributes to a violation of any requirement of the city's NPDES and/or SDS permit. The term includes prevention of sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under Section 405 of the Act (33 USC 1345) or any regulations developed pursuant to the Solid Waste Disposal Act (42 USC 6901 et seq.), or the Clean Air Act (42 USC 7401 et seq.), the Toxic Substances Control Act (15 USC 2601 et seq.), all as the same may be amended from time to time, or more stringent state criteria applicable to the method of disposal or use employed by the city.

MAY. Permissive.

MPCA. The Minnesota Pollution Control Agency.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act (33 USC 1317(b)) as it may be amended from time to time.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act (33 USC 1342 and 33 USC 1345) as they may be amended from time to time.

NATURAL OUTLET. Any outlet, including storm sewers and combined sewers, which overflows into a watercourse, pond, ditch, lake, or other body of surface water or ground water.

NON-CONTACT COOLING WATER. The water discharged from any use such as air conditioning, cooling, or refrigeration or during which the only pollutant added to the water is heat.

NON-RESIDENTIAL USER. A user of the treatment facility whose building is not used as a private residence and discharges NDSW.

NORMAL DOMESTIC STRENGTH WASTE (NDSW). Wastewater that is primarily introduced by residential users with a BOD₅ concentration not greater than 250 mg/l and a suspended solids (TSS) concentration not greater than 250 mg/l.

OPERATION, MAINTENANCE, AND REPLACEMENT COSTS (OM&R). Expenditures necessary to provide for the dependable, economical, and efficient functioning of the treatment facility throughout its design life, including operator training and permit fees. Replacement refers to equipment replacement costs, not the cost of future replacement of the entire facility.

PERSON. Any individual, firm, company, association, society, corporation, or group.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

PRETREATMENT. The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into publicly owned treatment facilities.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 cm) in any dimension.

RESIDENTIAL USER. A user of the treatment facility whose building is used primarily as a private residence and discharges NDSW.

ROOF DRAINS. Any and all devices, troughs or pipes that collect or gather any and all waters produced by rains or melted snows and ice on the roofs of any buildings or structures in the city.

SEWAGE. The spent water of a community. The preferred term is WASTEWATER.

SEWER. A pipe or conduit that carries wastewater or drainage water.

COLLECTION SEWER. A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.

COMBINED SEWER. A sewer intended to serve as a sanitary sewer and a storm sewer.

FORCE MAIN. A pipe in which wastewater is carried under pressure.

INTERCEPTOR SEWER. A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.

PRIVATE SEWER. A sewer which is not owned and maintained by a public authority.

PUBLIC SEWER. A sewer owned, maintained, and controlled by a public authority.

SANITARY SEWER. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not intentionally admitted.

STORM SEWER or STORM DRAIN. A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.

SEWER SERVICE CHARGE. The total of the user charge and the debt service charge.

SHALL. Mandatory.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater treatment facility who:

(1) Is subject to or potentially subject to national categorical pretreatment standards promulgated under Section 307(b) or (c) of the Act (33 USC 1317(b) or (c)) as it may be amended from time to time;

(2) Has as its wastes toxic pollutants as defined pursuant to Section 307(a) and Section 502 of the Act (33 USC 1317(a)) as it may be amended from time to time;

(3) Has a nondomestic flow of 25,000 gallons or more per average work day;

(4) Has a nondomestic flow greater than 5% of the flow in the municipality's wastewater treatment facilities; or

(5) Is determined by the treatment authority to have a significant impact or potential for significant impact, either singly or in combination with other contributing industries, on the wastewater treatment facilities, the quality of sludge, the facilities' effluent quality, or air emissions generated by the new system.

SLUG. Any discharge of water or wastewater which in concentration of any given constituent, or in the quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment facilities.

STATE DISPOSAL SYSTEM (SDS) PERMIT. Any permit (including any terms, conditions, and requirements thereof) issued by the MPCA pursuant to M.S. § 115.07 for a disposal system as defined by

M.S. § 115.01(8) as it may be amended from time to time.

SUMP PUMP. Any pump or device used to pump water.

SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS). The total suspended matter that either floats on the surface of, or is in suspension of, water, wastewater, or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater," latest edition, and referred to as nonfilterable residue.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act (33 USC 1317(a)) as it may be amended from time to time.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See Non-Contact Cooling Water)

USER. Any person who discharges or causes or permits the discharge of wastewater into the city's wastewater treatment facilities.

USER CHARGE. A charge to a user of a treatment facility for the user's proportionate share of the cost of operation and maintenance, including replacement.

WASTEWATER SYSTEM OPERATOR. The official of the city designated by the City Council and certified to operate the wastewater system.

WASTEWATER TREATMENT FACILITIES or TREATMENT FACILITIES. An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which are an integral part of the treatment process or are used for ultimate disposal of residues resulting from such treatment.

WATERCOURSE. A natural or artificial channel for the passage of water, either continuously or intermittently.

WPCF. The Water Pollution Control Federation.

(Ord. 59, passed 5-14-85; Am. Ord. 89, passed 11-22-94)

§ 51.02 REQUIRED USE OF SEWERS.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under its jurisdiction, any human or animal excrement, garbage, or objectionable waste except for the spreading of manure for agriculture-related uses.

(B) It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and the city's NPDES/SDS permit.

(C) Except as provided hereinafter, it shall be unlawful to construct or maintain any privy (portable toilet), privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, unless the public sewer is not reasonably available to the property as determined by the City Engineer. Privy's are permitted only on a temporary basis on construction sites or city owned parkland in conjunction with city park functions. Privy's shall be allowed for exempt assemblies listed in § 95.04 and be located on site no longer than 48 hour period before and after the event.

(D) The owner of any house or building constructed after the date of this chapter shall be required at the owner's expense to install an approved service connection to the public sewer in accordance with the provisions of this chapter and as required to obtain a building permit from the city. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes from which wastewater is discharged, and which is situated within the city, and which is not presently connected to the public sewer, and which utilizes a private septic system may pump the septic system and/or make routine maintenance of the private septic system, but shall not upgrade or replace the private septic system, and instead shall, within 30 days after the private septic system becomes inoperable, or upon 30-days written notice from the Wastewater System Operator, be required at the owner's expense to install an approved service connection to the public sewer in accordance with the provisions of this chapter, unless the public sewer is not reasonably available to the property as determined by the City Engineer.

(E) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under division (D) above, the city will undertake to have the connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest at a rate determined by the City Council and shall be certified to the County Auditor and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any remedial or enforcement provisions of this chapter.

(F) Except as provided hereinafter, it shall be unlawful to construct or maintain any private facility intended or used for the disposal of wastewater, unless the public sewer is not reasonably available to the property as determined by the City Engineer.

(Ord. 89, passed 11-22-94; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08) Penalty, see § 51.99

Cross-reference:

Nuisances; privy vaults, see § 91.16

§ 51.03 SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS).

(A) Where a public sewer is not available under the provisions of § 51.02(D), the house or building sewer shall be connected to a subsurface sewage treatment system (SSTS) complying with the provisions of this section. The provisions of Minnesota Rules Chapter 7080-7083, Subsurface Sewage Treatment Systems Program, as it may be amended, are hereby incorporated in this code by reference and shall constitute the minimum standards under which an individual SSTS may be installed, operated and maintained.

(B) Prior to commencement of construction of an SSTS of the house or building, the owner shall first obtain a written permit signed by the city's authorized representative.

(C) The type, capacities, location, and layout of an SSTS shall comply with all requirement of Minnesota Rules Chapter 7080, and applicable chapter of this code.

(D) The owner of the house or building shall operate and maintain the SSTS in a sanitary manner at all times and at no expense to the city.

(E) Nothing in this section shall be construed to replace or supersede any additional requirements that may be imposed by the Minnesota Pollution Control Agency, the State Department of Health, or other responsible federal, state, or local governmental authorities.

(Ord. 89, passed 11-22-94; Am. Ord. 1402, passed 9-9-14; Am. Ord. 2102, passed 8-24-21) Penalty, see § 51.99

Cross-reference:

Adoption of state individual sewage treatment system standards, see § 155.053

BUILDING SEWERS AND CONNECTIONS

§ 51.15 PERMITS.

(A) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city. Permits and applications therefor shall be available in the offices of the City Administrator.

(B) Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, the name of the owner, the street number of the building to be connected, and how the building is to be occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

(C) There shall be two classes of building sewer permits: for residential and commercial service; and for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the city. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

(D) Any new connection to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity or flow, BOD5, and suspended solids, as determined by the City Council.

(E) Any person desiring to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant is trained or skilled in the business and qualified to make the connection. All applications shall be referred to the City Administrator for recommendation to the City Council. If approved by the Council, such permission for connection to the public sewer shall be issued by the City Administrator upon receipt of the financial security herein provided.

(F) Any person who desires to receive permission from the city to connect to the city sewer shall file, annually, with the City Administrator, a certification in the form to be provided by the City Administrator, which certification shall include a representation that the party seeking permission to connect to the city sewer is qualified to do so, and shall defend, indemnify, and hold harmless the city from all suits, accidents, and damage that may arise by reason of any opening in any street, alley, or public ground made by the person or by those in the person's employment or under the person's control for any purpose whatsoever; and certifying that the person will replace and restore the street and alley over such opening to the condition existing prior to the installation, adequately guard the opening with barricades and lights, and keep and maintain the same to the satisfaction of the City Engineer and Wastewater System Operator, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the person by law.

(G) The fee for making service connections shall be as set by City Council resolution from time to time. All permits for connection to the public sewer shall expire 60 days after the date of the permit unless suspended or revoked prior thereto by the Council for cause.

(H) The Council may suspend or revoke any permit issued for connection to the public sewer under this subchapter for any of the following causes:

- (1) Giving false information in connection with the application for a permit;
- (2) Incompetence of the person applying for the permit;
- (3) Willful violation of any provisions of this subchapter or any rule or regulation pertaining to the making of service connections;
- (4) Failure to adequately protect, defend, indemnify, and hold harmless the city and the user.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.16 RESPONSIBILITY OF SERVICE LINE.

The sanitary sewer line between the building and the sewer main service stub, or if no stub is present the sewer main, is owned and maintained by the owner of the property serviced by such service line. The property owner must bear the cost of installing the sanitary sewer service line to the sanitary sewer service stub, if no stub is present, the property owner is responsible for connecting to the main in a location determined by the city. The property owner is also responsible for all maintenance and repairs to the sanitary sewer service line between the main and the building being

served. The owner shall defend, indemnify, and hold harmless the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

(Ord. 89, passed 11-22-94; Am. Ord. 1603, passed 3-8-16)

§ 51.17 BUILDING SEWERS.

(A) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, driveway, or yard. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

(B) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Wastewater System Operator, to meet all requirements of this chapter.

(C) The size, slopes, alignment, and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench shall all conform to the requirements of the state building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions, or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(D) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.18 CONNECTIONS.

(A) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff of ground water to a building sewer or indirectly to the wastewater treatment facilities.

(B) The connection of the building sewer into the public sewer shall conform to the requirements of the state building and plumbing codes or other applicable rules and regulations of the city or the procedures set forth

in appropriate specifications of the ASTM and the WPCS Manual of Practice No. 9. All such connections shall be made gastight and watertight to prevent the inclusion of infiltration/ inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

(C) The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Wastewater System Operator.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.19 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.20 GARAGE DRAINS.

Floor drains in private garages classified as Group U, Division 1 occupancies serving one and two family dwellings may discharge to daylight if approved by the Building Official. For the purpose of this chapter, the term "Private Garages Classified as Group U, Division 1" shall be defined by the Minnesota State Building Code as adopted in § 151.01.

(Ord.0408, passed 12-14-04) Penalty, see § 51.99

USE OF TREATMENT FACILITIES

§ 51.30 STORM WATER, NON-CONTACT COOLING WATER, AND THE LIKE.

(A) No person shall discharge or cause to be discharged any unpolluted water, such as storm water, ground water, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies. Industrial cooling

water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.31 DISCHARGES; PROHIBITED WASTES AND WATERS.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment facilities or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

(B) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, tissues, paunch manure, hair, hides, or paper cups, milk containers, etc., either whole or ground by garbage grinders.

(C) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater treatment facilities.

(D) Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater treatment facilities. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act (33 USC 1317(a)) and M.S. § 115.01(14) as they may be amended from time to time.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.32 DISCHARGES; RESTRICTED WASTES AND WATERS.

The following substances, materials, waters, or wastes shall be limited in discharges to the wastewater treatment facilities to concentrations or quantities which will not harm either sewers or the treatment facilities' treatment process or equipment; will not have an adverse effect on the

receiving stream and/or soil, vegetation, and ground water; or will not otherwise endanger life, limb, or public property or constitute a nuisance. The city may set limitations lower than limitations established in the regulations below if, in its opinion, such more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability of wastes, the city will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, the city's NPDES and/or SDS permit, capacity of the treatment plant, degree of treatability of wastes in the treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Wastewater System Operator are as follows:

(A) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the treatment facilities resulting in interference therein.

(B) Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0° and 65.6°C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

(C) Any quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

(D) A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

(E) Any garbage not properly shredded, as defined in § 51.01. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.

(F) Any noxious or malodorous liquids, gases, or solids which either alone or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

(G) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(H) Non-contact cooling water or unpolluted storm, drainage, or ground water.

(I) Wastewater containing inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that would cause disruption of the wastewater treatment facilities.

(J) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Wastewater System Operator in compliance with applicable state or federal regulations.

(K) Any waters or wastes containing arsenic, total chromium, copper, zinc, cadmium, cyanide, lead, mercury, nickel, silver, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the treatment works exceeds the limits established by the Wastewater System Operator for such materials.

(L) Any waters or wastes containing BOD5 or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the treatment facilities, except as may be permitted by specific written agreement subject to the provisions of § 51.44.

(M) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the effluent cannot meet the requirements or otherwise causes a violation of any statute, rule, regulation, or ordinance of any regulatory agency or state or federal regulatory body having jurisdiction over discharge into the receiving waters.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.33 DISCHARGE CONTROL OPTIONS OF CITY.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in §§ 51.31 and 51.32; which in the judgment of the city will have a deleterious effect upon the treatment facilities, processes, or equipment, receiving waters, and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act (33 USC 1317(b)) and all addenda thereof and as may be amended from time to time;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer charges.
- (B) If the city permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owner's expense and shall be subject to the review and approval of the city pursuant to the requirements of the MPCA.

(Ord. 89, passed 11-22-94)

§ 51.34 DILUTION IN LIEU OF TREATMENT PROHIBITED.

No user shall increase the use of process water or in any manner attempt to or dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in §§ 51.31 and 51.32 or contained in the National Categorical Pretreatment standards or any state requirement.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.35 PRETREATMENT FLOW-EQUALIZING FACILITIES.

Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by and at the expense of the owner.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.36 GREASE, OIL, AND SAND INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Wastewater System Operator, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 51.32(B), any flammable wastes as specified in § 51.31(A), sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be

responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Wastewater System Operator. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.37 CONTROL MANHOLES.

Where required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense and shall be maintained by the owner so as to be safe and accessible at all times.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.38 TESTS AND ANALYSES.

(A) The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests, and analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at such times and in such manner as prescribed by the city. The owner shall bear the expense of all measurement, analyses, and reporting required by the city. At such times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an independent laboratory.

(B) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, locations, times, duration, and

frequencies are to be determined on an individual basis subject to approval by the Wastewater System Operator.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.39 ACCIDENTAL DISCHARGES.

Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Wastewater System Operator for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Users shall notify the Wastewater System Operator immediately upon having a slug or accidental discharge of wastewater in violation of this chapter to enable countermeasures to be taken by the Wastewater System Operator to minimize damage to the treatment facilities. Such notification will not relieve any user of any liability for any expense, loss, or damage to the treatment facilities or treatment process, or for any fines imposed on the city on account thereof under any state and/or federal law. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a slug or accidental discharge. Employers shall ensure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.40 DEPOSITS AND OBSTRUCTIONS.

No person having charge of any building or other premises which drains into the public sewer shall permit any substance or matter which may form a deposit or obstruction of flow to pass into the public sewer. Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair, or alter the same, and perform such other work as the Wastewater System Operator may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 30 days, the Wastewater System Operator may cause such work to be completed at the expense of the owner or representative thereof.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.41 REPAIR AND MAINTENANCE OF CONNECTIONS.

Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Wastewater System Operator may direct. Each day after 30 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Wastewater System Operator may then cause the work to be done and recover from the owner or agent the expense thereof by an action in the name of the city.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.42 MOTOR VEHICLE WASHING AND SERVICE FACILITIES.

The owner and operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt, or any mineral deposit from entering the public sewer system.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

§ 51.43 LIABILITY FOR DAMAGE TO SEWER SYSTEM.

In addition to any penalties that may be imposed for violation of any provision of this subchapter, the city may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such person, and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city.

(Ord. 89, passed 11-22-94)

§ 51.44 SPECIAL AGREEMENTS FOR USE OF SYSTEM.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern, providing that National Categorical

Pretreatment Standards and the city's NPDES and/or State Disposal System permit limitations are not violated.

(Ord. 89, passed 11-22-94)

PROHIBITIONS

§ 51.55 DAMAGE TO TREATMENT FACILITIES.

No person shall willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater treatment facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

(Ord. 89, passed 11-22-94) Penalty, see § 51.99

SEWER SERVICE CHARGE SYSTEM

§ 51.65 SEWER SERVICE CHARGE SYSTEM (SSCS).

(A) The city hereby establishes a sewer system. All revenue collected from users of the wastewater treatment facilities will be used for annual operation, maintenance, replacement, and capital costs. Each user shall pay a proportionate share of operation, maintenance, and replacement costs based on the user's proportionate contribution to the total wastewater loading.

(B) Charges to users of the wastewater treatment facility shall be determined and fixed in a Sewer Service Charge System (SSCS) developed according to the provisions of this chapter. The SSCS adopted by resolution upon enactment of this chapter shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by Council resolution and published in the local paper.

(C) Revenues collected through the SSCS shall be deposited in a separate fund known as the Sewer Service Fund (SSF).

(Ord. 89, passed 11-22-94)

§ 51.66 SEWER SERVICE FUND (SSF).

(A) The city hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the SSCS and all other income dedicated to the wastewater treatment facility.

(B) The SSF administered by the city shall be separate and apart from all other accounts. Revenue received by the SSF shall be transferred to the following accounts established as income and expenditure accounts:

- (1) Operation and Maintenance;
- (2) Equipment Replacement;
- (3) Debt Retirement for the treatment facility (if any).

(Ord. 89, passed 11-22-94)

§ 51.67 ADMINISTRATION OF CHARGE SYSTEM AND FUND.

(A) The City Administrator shall maintain a proper system of accounts and records suitable for determining the operation, maintenance, replacement (OM&R), and debt retirement costs of the treatment facilities, and shall furnish the Council with a report of such costs annually.

(B) At that time, the Council shall determine whether sufficient revenue is being generated for the effective management of the facilities and debt retirement. The Council will also determine whether the user charges are distributed proportionately. If necessary, the SSCS shall be revised to insure proportionality of user charges and sufficient funds.

(C) In accordance with state requirements, each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to OM&R.

(D) Sewer service charges shall be billed on a quarterly basis. Any bill not paid in full 15 days after the due date will be considered delinquent. At that time the user will be notified regarding the delinquent bill and subsequent penalty. The penalty shall be imposed as determined by the City Council.

(Ord. 89, passed 11-22-94)

STORM WATER DISPOSAL

§ 51.75 PURPOSE.

The Council finds that the City Sanitary Sewage Collection and Treatment Facilities are unable to receive and dispose of the present volume of unpolluted water including, but not limited to, ground water and natural precipitation now being intentionally pumped or directed into such facilities; that, if allowed to continue, a potential danger to the health of persons and the safety of property exists in the collection of such waters thereby causing raw sewage to back up into basements and on to property of citizens; that, if allowed to continue, the potential danger exists of exceeding the capacity of the treatment facilities, thereby impairing the property operation thereof and complete treatment of other sewage; and, that the restricted and regulated installation, use and operation of sump pumps and other regulations of storm water disposal are therefore necessary to protect the health, safety and welfare of residents.

(Ord. 59, passed 5-14-85)

§ 51.76 PROHIBITED ACTS AND REGULATIONS.

(A) Prohibited water. From and after the passage and publication of this subchapter, as provided by law, it shall be unlawful for any person or persons directly or indirectly, to drain, discharge, or cause to be drained or discharged any storm water, surface water, or ground water from cisterns, or from roof drains, basement drains, or sump pumps into the sanitary sewer system of the city.

(B) Nonconforming connections to be disconnected. From and after the passage and publication of this subchapter as provided by law, it shall be unlawful for any person or persons, directly or indirectly, to continue the drainage of waters from cisterns, roof drains and sump pumps into the sanitary sewer system in the city, and all such person or persons, from and after the effective date of this subchapter shall forthwith disconnect all cisterns, roof drains, basement drains, and sump pumps now connected to the sanitary sewer system.

(C) Method of sump pump drainage. All dwellings and other buildings and structures which require, because of the infiltration of water into basements, crawl spaces and the like, a sump pump system to discharge excess water, shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as otherwise provided herein. A permanent installation shall be one which provides for year-round discharge capability to either the outside of the dwelling, building or structure, or to the storm sewer system. Unless directly connected to the storm sewer system by an underground tile or line system, or some other verifiable means, it shall consist of a discharge line which shall be constructed with rigid pipe (plastic, copper, galvanized or black pipe) one inch inside diameter minimum with a union or other

approved coupling for easy disconnection for repair or replacement. The discharge line shall protrude to the outside to a permanently drilled hole or opening, and shall extend at least three feet outside of the foundation wall of the dwelling, building or other structure with a hose connection. The line leading from the sump pump shall have a connection on the outside of the dwelling, building or structure which shall prevent it from being pulled back in through the hole. There shall also be allowed an additional connection to be installed at the pump for connection of a secondary line to discharge into the sanitary sewer system, but such secondary discharge line capable of discharging directly into the sanitary sewer system shall be used only after a waiver has been obtained pursuant to division (E), and only according to the terms of the waiver.

(D) Enforcement. The Building Inspector and other authorized employees of the city, bearing proper credentials and identification, shall at reasonable times be permitted to enter upon all properties connected to the sanitary sewer system for the purpose of an inspection and observation, to determine whether the requirements of this subchapter are being complied with.

(E) Appeals to City Council.

(1) Wavers. The City Council shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this subchapter where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Before applying for a waiver, a property owner shall have discussed his or her hardship with the City Clerk.

(2) Procedure. Application for waivers pursuant to this subchapter shall be addressed in writing to the City Clerk. The applications shall at a minimum identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Upon receipt of the written application for waiver, the City Clerk shall place the matter on the City Council meeting agenda when the applicant can be in attendance. Within a reasonable time after the City Council meeting, the City Council shall make its order deciding on the matter and serve a copy of such order upon the applicant by mail. Upon approval of an application for a waiver, a property owner shall be allowed to temporarily pump directly into the sanitary sewer system during such fixed times as determined by the City Council, and only according to the terms of said waiver and provided the applicant agrees to pay an additional fee for sanitary sewer service as set forth elsewhere in this subchapter. The beginning and ending of such time of temporary pumping into the sanitary sewer system by a holder of a waiver shall be given by mailed notice to each owner or occupant of the premises for which the written waiver has been issued.

(3) Additional fees for property owners granted waivers. Upon approval of an application for waiver, the applicant agrees to pay an additional fee for sanitary sewer service at a rate to be set from time to time by the City Council.

(Ord. 59, passed 5-14-85)

ADMINISTRATION AND ENFORCEMENT

§ 51.80 WASTEWATER SYSTEM OPERATOR.

The Wastewater System Operator shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives.

(Ord. 89, passed 11-22-94)

§ 51.81 INSPECTIONS.

(A) The Wastewater System Operator or other duly authorized employee of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, testing, repair, and maintenance pertinent to the discharges to the city's sewer system in accordance with the provisions of this chapter.

(B) Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of discharge to the collection system. An industry may withhold information considered confidential. However, the industry must establish that the information in question might result in an advantage to competitors and that the industrial process does not have deleterious results on the treatment process.

(C) The Wastewater System Operator or other duly authorized employee of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance

with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 89, passed 11-22-94)

§ 51.98 VIOLATIONS.

(A) Upon determination that a user has violated or is violating applicable provisions of this chapter or a related permit, the city may issue a notice of violation. Within 30 days of notification, the violator shall submit to the city an adequate explanation for the violation and a plan for the correction and prevention of such occurrences, including specific actions required. Submission of such a plan in no way relieves the violator of liability for any violations occurring before or after the notice of violation.

(B) Any violation shall be punished by a fine as provided in § 51.99. Such fines may be added to the user's next sewer service charge, and will hence be subject to the same collection regulations as specified § 51.68. Users desiring to dispute a fine must file a request for the city to reconsider within 30 days of the issuance of the fine. If the city believes that the request has merit, a hearing on the matter shall be convened within 30 days of receipt of the request.

(C) To collect delinquent sewer service charge accounts, the city may file a civil action or levy a lien against the violator. The violator shall also be responsible for payment of the city's attorney fees and expenses incurred. The violator shall be liable for interest on all balances at a rate of 18% annually.

(D) Any person violating any of the provisions of this chapter shall become liable to the city for any

expense, loss, or damage occasioned by the city by reason of such violation, including attorney fees and court costs.

(Ord. 89, passed 11-22-94)

§ 51.99 PENALTY.

(A) Any violation of this chapter is subject to a fine not exceeding \$700. Each day in which a violation occurs shall be deemed a separate offense.

(B) Any violation of §§ 51.75 and 51.76 is subject to a fine not exceeding \$700 or imprisonment in the county jail for a period not exceeding 90 days, or both.

(Ord. 59, passed 5-14-85; Am. Ord. 89, passed 11-22-94)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS
- 71. PARKING REGULATIONS
- 72. RECREATIONAL MOTOR VEHICLES
- 73. PARKING SCHEDULES

CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

- 70.01 Adoption of state traffic laws

General Regulations

- 70.10 Negligent operation
- 70.11 Unreasonable acceleration
- 70.12 Erratic driving
- 70.13 Truck traffic
- 70.14 Excessive vehicle noise; including engine compression braking

Weight Limitations

- 70.25 Authority
- 70.26 Purpose
- 70.27 Applicability
- 70.28 Restrictions generally
- 70.29 Emergency restrictions
- 70.30 Permits for vehicles in excess of weight limitations
- 70.31 Weighing
- 70.99 Penalty

Cross-reference:

Traffic regulations related to firefighting operations, see § 32.50 et seq.

GENERAL PROVISIONS

§ 70.01 ADOPTION OF STATE TRAFFIC LAWS.

The regulatory provisions of M.S. Ch. 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets, and alleys within the city and are hereby incorporated in and made a part of this chapter as completely as if set out here in full.

(Ord. 13, passed 5-3-60) Penalty, see § 70.99

GENERAL REGULATIONS

§ 70.10 NEGLIGENT OPERATION.

No person shall drive a vehicle on any street or highway within the city at a speed greater than is reasonable and prudent, having due regard to the traffic, surface, width of highway, and other conditions then existing, or operate a vehicle carelessly or heedlessly in disregard of the rights or safety of others.

(Ord. 4, passed 3-24-50) Penalty, see § 70.99

§ 70.11 UNREASONABLE ACCELERATION.

(A) No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public highway, street, parking lot, alley, or other public property, or upon any private street or road freely used by the general public.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

UNREASONABLE ACCELERATION OF A MOTOR VEHICLE. Acceleration which unnecessarily breaks traction between a tire or tires of the motor vehicle and the driving surface, thereby causing squealing or a screeching sound by the tire or tires or the unnecessary throwing of sand or gravel by the tire or tires, or both.

(C) Prima facie evidence of such unnecessary exhibition of speed shall be unreasonable squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of the vehicle or both.

(Ord. 63, passed 5-24-88) Penalty, see § 70.99

§ 70.12 ERRATIC DRIVING.

No person shall drive a motor vehicle on a public highway, street, parking lot, alley, or other public property, or upon a private street or road freely used by the general public, at erratic or irregular and changing speeds so as to create a hazard to him- or herself or other persons or property or so to interfere with other traffic in the area.

(Ord. 63, passed 5-24-88) Penalty, see § 70.99

§ 70.13 TRUCK TRAFFIC.

(A) Prohibited acts. No person shall drive, operate, or control any motor vehicle with a gross vehicle weight in excess of 10,000 pounds on any city street posted with a sign that substantially states "No Truck Traffic" on streets designated by resolution of the City Council from time to time.

(B) Exceptions. This section shall not apply to any vehicle delivering products to residential customers or providing a service to a residential customer.

(Ord. 94, passed 9-12-95) Penalty, see § 70.99

§ 70.14 EXCESSIVE VEHICLE NOISE; INCLUDING ENGINE COMPRESSION BRAKING.

(A) Definitions. For the purposes of this section, the following phrases are defined as follows:

ABNORMAL OR EXCESSIVE NOISE.

(a) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working condition; or

(c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

ENGINE BRAKE. A dynamic brake, Jake brake, Jacobs brake, c-brake, Paccar brake, transmission brake or other similar engine braking device or

system that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

(B) Excessive vehicle noise.

(1) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(2) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(3) Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a petty misdemeanor and punished by a fine of no more than \$300.

(C) Signing. Signs stating "NO ENGINE BRAKING" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating "NO ENGINE BRAKING" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

(Ord. 2006, passed 12-22-20)

WEIGHT LIMITATIONS

§ 70.25 AUTHORITY.

Pursuant to M.S. § 169.87 as it may be amended from time to time, local authorities may, by ordinance, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, upon highways and streets under local jurisdiction and control.

(Ord. 113, passed 2-24-98)

§ 70.26 PURPOSE.

The purpose of this subchapter is to regulate the use of city streets and public thoroughfares with respect to all manner of hauling activities which,

due to excessive operating weight, may tend to adversely affect the useful life of the streets.

(Ord. 113, passed 2-24-98)

§ 70.27 APPLICABILITY.

This subchapter shall have no application upon any streets located in the city not publicly dedicated to and maintained by the city.

(Ord. 113, passed 2-24-98; Am. Ord. 123, passed 3-23-99)

§ 70.28 RESTRICTIONS GENERALLY.

(A) Prohibited vehicles. All motor vehicles, tractors, trailers, or any machine or instrument that is driven, pulled, pushed, or parked having axle weights over five tons per axle are prohibited from traveling on any city street posted with weight restrictions in the city.

(B) Seasonal weight restrictions. The City Council may prohibit the operation of vehicles upon any street under jurisdiction and control of the city or impose additional weight restrictions on vehicles to be operated on such streets whenever the street, by reason of deterioration, rain, snow, or other climatic conditions, will or could be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weight thereof is reduced. The City Council shall cause to be erected and maintained signs plainly indicating the prohibition or weight restriction at each end of that portion of the highway or city street affected thereby. No person shall operate a vehicle on a restricted street in violation of the prohibition or restriction, except that travel on certain streets may be allowed by prior permit of the City Council.

(C) Exceptions. The above weight restrictions shall not apply to city, emergency or public transportation vehicles. The above weight restrictions shall also not apply to school buses and Head Start buses when the single axle weight of the school bus or Head Start bus does not exceed 14,000 pounds; provided, however, that the City Council may restrict any city street under its jurisdiction and control to a lesser axle weight for school buses and Head Start buses by written order to the affected school board and Head Start grantees 24 hours in advance of required compliance with such lesser axle weight restrictions.

(Ord. 113, passed 2-24-98; Am. Ord. 123, passed 3-23-99) Penalty, see § 70.99

§ 70.29 EMERGENCY RESTRICTIONS.

The City Public Works Supervisor may, without the recommendation of the City Council, post signs closing or imposing weight restrictions on any city street provided that such emergency closing shall be effective only for such period of time as may be reasonable and necessary for the City Council to have the street inspected.

(Ord. 113, passed 2-24-98)

§ 70.30 PERMITS FOR VEHICLES IN EXCESS OF WEIGHT LIMITATIONS.

(A) The Public Works Supervisor may issue an "emergency overweight permit" authorizing an individual to travel with a vehicle having axle weight exceeding the restrictions herein set forth or otherwise posted on the street. The individual must make written application to the Public Works Supervisor showing good cause for the emergency overweight permit. The application shall specifically describe the vehicle or vehicles, and the streets and particular routes to be traveled. Emergency overweight permits shall be valid for only a 24-hour period. If granted, the emergency overweight permit shall be carried in the vehicle and shall be open to inspection.

(B) The City Council may issue an "overweight permit" authorizing an individual to travel with a vehicle having an axle weight exceeding the restrictions herein set forth or otherwise posted on the street. The individual receiving such overweight permit must make written application to the City Council showing good cause for the permit. The application shall specifically describe the vehicle or vehicles, the streets and particular routes to be traveled, and the period of time for which the permit is requested. The application will be reviewed by the City Engineer and the Public Works Supervisor for recommendation. If granted, the permit shall be carried in the vehicle at all times and shall be open to inspection.

(C) Issuance of an emergency overweight permit or overweight permit imposes upon the holder of the permit all responsibility for damage caused to the designated routes by such excess load and the holder of the permit shall reimburse the city for all reasonable and necessary expenditures to repair and replace the street to its former condition.

(Ord. 113, passed 2-24-98) Penalty, see § 70.99

§ 70.31 WEIGHING.

Any peace officer having probable cause to believe that the total weight of the vehicle and load being operated on a city street is unlawful is authorized

to require the operator of such vehicle to stop and submit such vehicle to a weighing at the nearest available scale.

(Ord. 113, passed 2-24-98)

§ 70.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be punished as provided in § 10.99.

(B) Any violation of the statutes adopted by reference in § 70.01 shall be punished by the penalty prescribed in the statutes.

(Ord. 13, passed 5-3-60)

(C) A violation of the provisions of § 70.11 or § 70.12 is a petty misdemeanor, except where otherwise provided by statute.

(Ord. 63, passed 5-24-88)

(D) A violation of § 70.13 shall be a petty misdemeanor, punishable according to law.

(Ord. 94, passed 9-12-95)

Cross-reference:

Penalty for petty misdemeanors, see § 10.99

CHAPTER 71: PARKING REGULATIONS

Section

71.01 No-parking zones

71.02 Snow removal periods

71.03 Motor homes, trucks, and the like

71.04 Parking hours

71.99 Penalty

Cross-reference:

Parking regulations related to firefighting, see § 32.54

§ 71.01 NO-PARKING ZONES.

No person shall park a vehicle or permit it to stand on any highway or street within the city in any of the following places:

- (A) On a sidewalk;
- (B) In front of a public or private driveway;
- (C) Within an intersection;
- (D) Within ten feet of a fire hydrant;
- (E) On a crosswalk;
- (F) Within 20 feet of the driveway entrance to the fire station;
- (G) Further than ten feet from the curb or edge of a street, unless legally designated. No portion of a parked vehicle may extend beyond ten feet from the curb or edge of street;
- (H) In a location that is not parallel to the curb or edge of street, unless legally designated.

(Ord. 4, passed 3-24-50; Am. Ord. 0204, passed 8-13-02) Penalty, see § 71.99

§ 71.02 SNOW REMOVAL PERIODS.

(A) Purpose. The purpose of this section is to regulate on-street parking and the placement of any obstructions on city streets during winter months so as to expedite removal of snow and ice from the city streets.

(B) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. Shall be defined as set forth in M.S. § 609.52(1), as amended from time to time.

(C) Prohibitions.

(1) In the designated commuter parking spaces located in the city-owned parking lot at First Street SE, no motor vehicle shall be parked between the hours of 2:00 a.m. and 5:00 a.m. from November 1 through April 1 of each year, or as signed by the city.

(2) On all other streets within the corporate limits of the city, no motor vehicle shall be parked between the hours of 2:00 a.m. and 6:00 a.m. from November 1 through April 1 of each year.

(3) After a two-inch snowfall, no motor vehicle shall be parked or allowed to remain on any city street, or city-owned parking lot, at any time, per the provisions of divisions (1) and (2) above notwithstanding, until snowplowing of the full width of the street and city-owned parking lot have been completed.

(4) No one shall, at any time, place any object, person, vehicle, substance, or thing upon any city street or city-owned parking lot, which will impede, obstruct, or interfere with the maintenance of the street or city-owned parking lot, including snowplowing. This subsection shall not apply to the parking of motor vehicles in compliance with this section.

(D) Towing and impoundment. Any motor vehicle parked or left remaining on a city street or city-owned parking lot, in violation of this section may be summarily towed and impounded without notice to the owner of the motor vehicle at the direction of any peace officer, and the owner of the motor vehicle shall be responsible for payment of all towing and impounding fees. Amounts paid by the owner under this section shall not be deemed to be a penalty or a fine.

(Ord. 101, passed 10-22-96; Am. Ord. 102, passed 12-3-96; Am. Ord. 0903, passed 10-27-09) Penalty, see § 71.99

§ 71.03 MOTOR HOMES, TRUCKS, AND THE LIKE.

(A) Purpose. The City Council finds that in order to promote the health, welfare, and safety of the citizens of the city and to promote traffic flow, that restrictions be placed upon the parking of certain vehicles upon city streets, or city-owned parking lots, and other designated areas.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RECREATIONAL VEHICLE. Shall include, without limitation, the following:

CAMPING TRAILER. A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

COMMERCIAL VEHICLE. A truck, truck-tractor, semi-trailer, van or bus having a licensed gross weight over 12,000 pounds.

MOTOR HOME. A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

PICKUP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as such by the manufacturer of the trailer.

TRAILER. A portable structure built on a chassis, either open or closed, and designed to be used for moving or hauling materials or objects such as snowmobiles, boats, jet skis, dirt bikes, and ATVs.

(C) General parking prohibitions.

(1) Recreational vehicles. Other than persons on emergency calls, parking of recreational vehicles is prohibited on any public street, highway, or alley within the city between the hours of 2:00 a.m. and 6:00 a.m.

(2) Trucks and commercial vehicles. Other than persons on emergency calls, parking for longer than 15 minutes of vehicles exceeding a gross vehicle weight of 12,000 pounds or more , or any truck, trailer, semitrailer, truck-tractor, road tractor, or vehicle used to commercially haul garbage or rubbish, or any vehicle or combination of vehicles equipped with more than two axles is prohibited on any public street, highway or right-of-way which is not specifically designated as a county road or state highway, unless the vehicle is in the process of being loaded or unloaded at such location, parking lot or alley, or in any parking area as required by § 155.050(G)(13). For the purposes of this division, terms defined in M.S. § 169.01 shall apply.

(D) Presumption of violator identity. It shall be presumed, for purposes of this section, that any recreational vehicle or truck in excess of ¾-ton gross vehicle weight that has been parked in violation of this section shall have been parked by the owner of the vehicle, or that the driver of the vehicle was acting as the agent of the owner.

(E) Liability. Any person violating any of the provisions of this section shall become liable to the city for any expense, loss, or damage occasioned by the city by the reason of such violation, including court costs and reasonable attorneys fees.

(Ord. 87, passed 7-12-94; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1004, passed 7-13-10; Am. Ord. 1704, passed 10-24-17) Penalty, see § 71.99

§ 71.04 PARKING HOURS.

(A) It is unlawful for any person to stop, park or leave standing any vehicle upon any public street for a continuous period in excess of 48 hours.

(B) The Public Works Supervisor may, when authorized by resolution of the City Council, designate certain streets, blocks or portions of streets or blocks, and city-owned parking lots, as prohibited parking zones, or limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

(C) It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a peace officer for the purpose of measuring the length of time such vehicle has been parked.

(D) For the purpose of enforcement of this section, any vehicle moved less than one block shall be deemed to have remained stationary.

(Ord. 0204, passed 8-13-02; Am. Ord. 0903, passed 10-27-09)

§ 71.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be penalized as provided in § 10.99.

(B) Violation of § 71.02 shall be a petty misdemeanor, punishable as provided in § 10.99.

(Ord. 101, passed 10-22-96; Am. Ord. 102, passed 12-3-96)

CHAPTER 72: RECREATIONAL MOTOR VEHICLES

Section

72.01 Purpose and intent

72.02 Definitions

72.03 Permitted operation of a recreational motor vehicle

72.04 Restrictions of recreational motor vehicles

72.05 Minimum equipment requirements

72.06 Compliance

72.99 Penalty

§ 72.01 PURPOSE AND INTENT.

The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city. It is intended to protect life, property, and to prevent public nuisances. No section hereafter shall be construed to minimize regulations set forth in M.S. Ch. 168 (Motor Vehicle Registration), as it may be amended from time to time, M.S. Ch. 169 (Motor Vehicle Operation)/(Driver License Regulations), as it may be amended from time to time, and M.S. §§ 84.81 et seq. (Snowmobile Regulations), as it may be amended from time to time.

(Ord. 2004, passed 11-10-20)

§ 72.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE or VEHICLE. Has the meaning given in M.S. § 84.92, subd. 8, as it may be amended from time to time.

CLASS 1 ATV. An ATV as defined by M.S. § 84.92, subd. 9, as it may be amended from time to time.

CLASS 2 ATV. An ATV as defined by M.S. § 84.92, subd. 10, as it may be amended from time to time, but not including a golf cart, mini-truck, dune buggy or go-cart or vehicle designed and used specifically for lawn maintenance, agriculture, logging or mining purposes.

DRIVER-OPERATOR. Every person who drives or operates and is in actual physical control of a recreational vehicle.

MOTORIZED BICYCLE. A bicycle with fully operational pedals which may be propelled by human power or a motor, or by both, with a motor with a capacity of less than 50 cubic centimeters piston displacement, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1% grade in any direction when the motor is engaged.

MOTORIZED GOLF CART. A vehicle usually three or four wheeled, which is self-propelled and is designed to be used to provide transportation on a golf course.

OWNER. A person, other than a lien holder, having the property in or title to a recreational motor vehicle entitled to the use or possession thereof.

RECREATIONAL MOTOR VEHICLE (RMV). A self-propelled vehicle designed for travel on snow, ice, or natural terrain steered by wheels, skis, or runners. Snowmobiles, Class 1 ATV, Class 2 ATV, UTV, golf carts, go-carts, mini-bikes, motorized bicycle, dune buggies, and trail bikes are all RMVs.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

(Ord. 2004, passed 11-10-20; Am. Ord. 2103, passed 12-14-21)

§ 72.03 PERMITTED OPERATION OF A RECREATIONAL MOTOR VEHICLE.

The following recreational motor vehicles shall be specifically permitted within the corporate limits of the city subject to the following regulations:

(A) Class 2 ATVs and snowmobiles.

(1) Class 2 ATVs shall operate on the extreme right-hand side of the right-of-way of streets, roadways, or alleys used for other public motor vehicular travel and that are under the jurisdiction of the city, and follow all regulations described in M.S. § 84.928, subd. 1, as it may be amended from time to time.

(2) Snowmobiles shall operate on the extreme right-hand side of the right-of-way streets, roadways, or alleys that are used for other public motor vehicular travel and that are under the jurisdiction of the city, and follow all regulations described in M.S. § 84.87, subd. 1, as it may be amended from time to time.

(3) Owner-operator shall present proof of registration of the Class 2 ATV, if registration is required by M.S. § 84.922, as it may be amended from time to time.

(4) Owner-operator shall hold valid insurance complying with M.S. § 65B.48, subd. 5, as it may be amended from time to time.

(5) Class 2 ATVs and snowmobiles shall obey all city and state traffic laws when operating vehicles on city streets.

(Ord. 2004, passed 11-10-20; Am. Ord. 2103, passed 12-14-21) Penalty, see § 72.99

§ 72.04 RESTRICTION OF RECREATIONAL MOTOR VEHICLES.

(A) Recreational motor vehicles shall not be allowed, except as specifically permitted in § 72.03.

(B) It is a misdemeanor to operate any recreational motor vehicle as listed in divisions (C) and (D) below.

(C) Class 2 ATVs and snowmobiles shall comply with the following regulations:

(1) Hours. Shall be operated between the hours of 7:00 a.m. and 11:00 p.m., except on Fridays, Saturdays, and evenings preceding Thanksgiving, Christmas, and New Year's the hours shall be 7:00 a.m. to 1:00 a.m.;

(2) Speed. Shall not be operated at a rate of speed greater than reasonable, prudent, or proper under all the surrounding circumstance, but in no case exceeding 15 mph for snowmobiles and 20 mph for Class 2 ATV in all residentially zoned areas;

(3) Public land, sidewalks and trails. Shall not be operated on publicly owned lands, including, but not limited to school grounds, city streets, park property, playgrounds, or recreation areas, nor on any sidewalks or pathways in the city provided for pedestrian and/or bicycle travel, except on state designated lands and trails open to Class 2 ATVs and snowmobiles;

(4) Ditches. Class 2 ATVs shall not be operated on the bottom or inside slope of a road ditch, unless on a trail designated for Class 2 ATV;

(5) Manner. Shall not be operated at any place in a careless, reckless, or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto;

(6) Private property. Shall not be operated on private property of another without specific permission of the owner or person in control of the property;

(7) Under the influence. Shall not be operated while under the influence of alcohol or drugs as defined in M.S. § 169A.20, as it may be amended from time to time;

(8) Animals. Shall not be operated in a manner to intentionally drive, chase, run over, kill or otherwise take or attempt to take any animal, wild or domestic;

(9) Highway. Shall not be operated on any roadway, shoulder, or inside bank or slope of any city trunk, county state aid, or county highway in the city, except as provided in this chapter, nor shall operation on any such highway be permitted where the roadway directly abuts a public sidewalk or walkway; and

(10) Lights. Shall not be operated without headlight and taillight illuminated, if the vehicle is equipped with headlight and taillight.

(D) All other recreational motor vehicles, including, but not limited to, Class 1 ATVs, motorized golf carts, go-carts, mini-bikes, motorized bicycles, dune buggies, and utility task vehicles, are not permitted on any city street, county or state highway, sidewalk, pathway, trail, recreational area, or any other public area, nor on any private property of another without permission to do so by the owner of the property.

(Ord. 2004, passed 11-10-20) Penalty, see § 72.99

§ 72.05 MINIMUM EQUIPMENT REQUIREMENTS.

(A) Muffler. Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe, or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.

(B) Brakes. Brakes shall be adequate to control the movement under any conditions of operation.

(C) Lights. At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

(D) Reflective material. Snowmobiles shall have reflective material at least 16 inches on each side, forward on the handlebars, so as to reflect a beam of light at a 90-degree angle.

(E) Safety equipment. Helmet and seat belts shall be required as follows:

(1) A person less than 18 years of age shall not ride as a passenger or as an operator of a recreational vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.

(2) A person less than 18 of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when a seat belt has been provided by the manufacturer.

(Ord. 2004, passed 11-10-20) Penalty, see § 72.99

§ 72.06 COMPLIANCE.

It is unlawful for an owner-operator to permit operation of a recreational motor vehicle contrary to the provisions of this chapter.

(Ord. 2004, passed 11-10-20) Penalty, see § 72.99

§ 72.99 PENALTY.

Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Ord. 2004, passed 11-10-20)

CHAPTER 73: PARKING SCHEDULES

Schedule

I. Limited parking zones

Cross-reference:

Snow removal periods and related parking limitations, see § 71.02

SCHEDULE I. LIMITED PARKING ZONES.

(A) Definitions. For the purpose of this schedule, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FARM EQUIPMENT. Those implements, including farm tractors, which are used as a part of a farming operation or for farming purposes.

HOUSE TRAILER. Shall have the meaning ascribed to it by M.S. § 168.011.

MOBILE HOME. Shall have the meaning ascribed to it by M.S. § 168.011 as it may be amended from time to time.

MOTORCYCLE. Shall have the meaning ascribed to it by M.S. § 168.011 as it may be amended from time to time.

MOTOR VEHICLE. Shall have the meaning ascribed to it by M.S. § 168.011 as it may be amended from time to time.

SNOWMOBILE. A self-propelled vehicle which is designed to be used primarily on snow or ice and is equipped with skis or runners and a power-driven drum or track and is steered by wheels, skis, or runners.

(B) Restrictive parking. It shall be unlawful for any person to leave any motor vehicle, house trailer, mobile home, bus, truck, tractor, truck-tractor, trailer, semi-trailer, farm truck, motorcycle, snowmobile, farm equipment, or any other type of vehicle or equipment unattended for a period of more than two hours during the hours of 8:00 a.m. through 4:00 p.m. Monday through Friday in the following areas:

Street

Central Avenue

Central Avenue

Main Street

Main Street

(C) Penalty. Every person convicted of a violation of the provisions of this schedule shall be guilty of a misdemeanor and shall be punished by a fine of \$15.

(Ord. 30, passed 7-27-76)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. HEALTH AND SAFETY; NUISANCES

92. PARKS AND RECREATION

93. STREETS AND SIDEWALKS

94. TREES AND SHRUBS

95. ASSEMBLIES

96. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

97. SOLID WASTE COLLECTION AND DISPOSAL

98. REGISTRATION OF VACANT BUILDINGS

99. PREDATORY OFFENDER RESIDENCY RESTRICTION

CHAPTER 90: ANIMALS

Section

- 90.01 Definitions
- 90.02 Dog regulations
- 90.03 Kennel licenses
- 90.04 Commercial kennel
- 90.05 Animal control authority
- 90.06 Interfering with animal control authority
- 90.07 Non-domestic animals
- 90.08 Farm animals
- 90.09 Limit on number of animals
- 90.10 Nuisances
- 90.11 Dangerous animals
- 90.12 Diseased animals
- 90.13 Basic care
- 90.14 Enforcement
- 90.15 Impounding
- 90.16 Adoption by reference
- 90.99 Penalty

§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. ANIMALS shall be classified as follows:

(1) DOMESTIC. Those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) NON-DOMESTIC. Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

(3) FARM. Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stables. This also includes Cervidae, Ratitae and Llama animal groups as defined by Minnesota state statute. (These animals include, but are not limited to elks, ostriches, emus, rheas and llamas and under state law all are considered to be livestock and raised for agricultural pursuits).

ANIMAL CONTROL AUTHORITY. A person employed by or under contract with the city or Wright County who is responsible for animal control enforcement and investigating complaints, including all on-duty Wright County Deputies while operating in the city.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined. An unattended dog on the property of

another without the consent of such property owner is AT LARGE and not UNDER RESTRAINT even though it is on a leash.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

COMMERCIAL KENNEL. Any place where more than two dogs over six months of age are kept where the business of raising, selling, boarding, breeding, showing, or grooming of dogs or other animals is conducted, with the exception of veterinary clinics.

CURRENT VACCINATION. A valid inoculation with any recognized vaccine approved by the United States Department of Agricultural for the prevention of rabies.

DOG. Both the male and female of the canine species commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RESIDENTIAL KENNEL. Any place where more than two dogs over six months of age are kept on premises which are zoned and occupied for residential purposes, and where the keeping of such dogs is incidental to the occupancy of the premises for residential purposes.

SERVICE ANIMAL. Any animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are hearing impaired to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

UNDER RESTRAINT. Any dog that is controlled by a leash not exceeding six feet in length, or at heel beside a competent person having custody of it and obedient to their commands, or within a vehicle being driven or parked on a public street within the property limits of its owner's premises.

VACCINATION CERTIFICATE. A document dated and signed by a licensed veterinarian stating the brand of vaccine used, manufacturer's serial number of the vaccine used and describing the animal, age and breed, owner and vaccination tag number indicating that the animal has been immunized against rabies.

VETERINARY CLINIC. Any establishment maintained and operated by a Minnesota licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.02 DOG REGULATIONS.

(A) Running at large prohibited. It shall be unlawful for any person who owns, harbors, or keeps a dog, or the parents or the guardians of any such person under 18 years of age, to allow such dog to run at large. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs Prohibited."

(B) Identification required. All dogs are required to have identification on them that would assist the city or animal control authority in contacting the owner. Identification allowed under this chapter include microchips, veterinarian issued rabies tags, or any tags or collars with contact information and phone number(s) inscribed on them or affixed thereto.

(C) Vaccination. It is unlawful for any person to keep, harbor or maintain any dog over the age of six months which is susceptible to rabies unless that dog has a current rabies vaccination, unless otherwise specified by a licensed veterinarian. Each dog license application must be accompanied by a rabies vaccination certificate from a licensed veterinarian. The dog must maintain a current rabies vaccination for the duration of the license.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.03 KENNEL LICENSES.

No person may operate a residential or commercial kennel in the city without first obtaining a kennel license as provided in this section. Application for the license shall be made to the City Clerk and shall expire on December 31, of each odd year. The City Council may impose conditions upon the granting of any commercial or residential kennel license.

(A) No person may operate a residential kennel in this city without first obtaining a residential kennel license as provided in this section. Application for the license shall be made to the City Clerk and must be accompanied by the license fee set forth by City Council.

(B) When an application is made for a residential kennel license a letter will be mailed to all neighboring property owners. The letter will notify these property owners of the application and request any feedback regarding the application. Whether or not all of the occupants of abutting property approve the application, the city may grant or deny the license. The license may not be granted unless the city finds that the use of the

applicant's premises as a residential kennel will not have, or will not be likely to have, any adverse effect upon neighboring properties or the occupancy thereof, and will not constitute a nuisance to the neighborhood.

(C) Residential or commercial kennel licenses may be revoked by the city by reason of any violation of this chapter or by reason of violation of any other provision of this code or any order, law or regulation.

(D) Before revoking a residential or commercial kennel license, the licensee shall be given notice of the meeting at which such revocation will be considered, and if the licensee is present at such meeting the licensee must be given an opportunity to be heard. Notice of the meeting shall be given to the licensee in writing. Written notice shall be mailed to the address of the licensee as set forth in the licensee's application for the kennel license.

(E) The fee for a residential or commercial kennel license shall be set forth by City Council from time to time. The residential kennel license fee is in addition to the usual animal license fees provided in this chapter, if applicable.

(F) Kennels shall be maintained in a clean and healthful condition at all times and shall be open to inspection by any agent on behalf of the city, at all reasonable times.

(Ord. 0303, passed 4-8-03)

§ 90.04 COMMERCIAL KENNEL.

A commercial kennel shall only be permitted in the B-1 General Business District or the A-1 Zoning District with a Conditional Use Permit. A Conditional Use Permit shall allow a commercial kennel in the B-1 General Business District as set forth by the regulations in § 155.208. A Conditional Use Permit shall allow a commercial kennel in the A-1 zoning district as set forth by the regulations § 155.118(A)(5). The required Conditional Use Permit is based upon procedures set forth in and regulated by § 155.440. An exception shall be made to this requirement for any veterinary clinic.

(Ord. 0303, passed 4-8-03)

§ 90.05 ANIMAL CONTROL AUTHORITY.

The City Council is hereby authorized to appoint any designee of the city's law enforcement agency or representative/contractor of the city to enforce the provisions of this chapter. In the agent's duty of enforcing the

provisions of this chapter, he or she may from time to time, with the consent of the City Council, designate certain assistants.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.06 INTERFERING WITH ANIMAL CONTROL AUTHORITY.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs or other animals and convey them to the pound while such person is performing his or her official duties. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this chapter.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.07 NON-DOMESTIC ANIMALS.

It shall be illegal for any person or business to own, possess, harbor, feed, or offer for sale, any non-domestic animal within the city limits. Any owner of such an animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this chapter. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinary clinic, or scientific research lab. This exception includes any licensed show or exhibition not to exceed a total of 14 days during any 12-month period.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.08 FARM ANIMALS.

Farm animals shall only be kept as allowed by §§ 155.070 and 155.071. An exception shall be made for those animals brought into the city as part of an operating zoo, veterinary clinic, or scientific research laboratory. This exception includes any licensed show or exhibition not to exceed a total of 14 days during any 12-month period.

(Ord. 0303, passed 4-8-03; Am. Ord. 1603, passed 3-8-16; Am. Ord. 2103, passed 12-14-21)

§ 90.09 LIMIT ON NUMBER OF ANIMALS.

Except for kennels licensed under this section the following limits on animals will apply. For the purposes of this section, the term HOUSEHOLD refers to a single family residence or single unit of a town home, condominium, apartment or comparable structure which is rented, leased or used as a single unit. This section shall not be construed to limit the ability of apartment managers, landlords, town home associations or other representative of property owners to impose greater restrictions.

(A) Dogs. No household shall keep, maintain or otherwise house more than a total of two dogs over the age of six months within any household in the city unless authorized by a residential or commercial kennel license.

(1) Any household that has more than two dogs must have a residential or commercial kennel license issued by the city. The number of dogs permitted per residential kennel license shall not exceed a total of four dogs. The number of dogs permitted per commercial kennel license shall be determined by each conditional use permit.

(2) Any current household of the city who owned more than four dogs prior to the effective date of this chapter shall be permitted to keep those animals provided that those animals in that household were properly licensed and registered under a residential or commercial kennel license prior to the effective date of this chapter. No person affected by this subdivision shall be permitted to acquire any additional dogs or to replace any dogs in excess of four.

(B) Cats. No household in any residential zoning district shall keep, maintain, or otherwise house more than a total of four cats over the age of six months within any household.

(C) Congregate limit. No household in any residential zoning district shall keep, maintain, or otherwise house more than a total of four dogs, cats or combination thereof within any household unless authorized by a residential or commercial kennel license.

(Ord. 0303, passed 4-8-03; Am. Ord. 1005, passed 9-28-10; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 90.10 NUISANCES.

(A) Habitual barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises. It shall not be a violation of this

section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located.

(B) Damage to property. It shall be unlawful for any owner to permit the owner's dog or other animal to damage any lawn, garden, or other property of another. Any animal which damages any lawn, garden, or other property of another may be impounded as provided in this chapter or a complaint may be issued by anyone against the owner of an animal which damages any lawn, garden, or other property of the complainant.

(C) Animal waste. It is unlawful for any person who owns or has custody of a dog or cat to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property, unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this subdivision shall not apply to service dog or dogs being used for police activity.

(D) Animals in heat. Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such a manner that such female animal cannot come in contact with other animals.

(E) Other. Any animals kept contrary to this chapter are hereby declared a public nuisance and may be abated according to the law.

(Ord. 0303, passed 4-8-03)

§ 90.11 DANGEROUS ANIMALS.

(A) Adoption by reference of state law and county ordinance. The provisions of M.S. Chapter 347 (§ § 347.50 through 347.65), as it may be amended from time to time, and Wright County Ordinance Chapter 90, as it may be amended from time to time, as they pertain to domestic animals, are adopted by reference and are as much part of this code as if fully set forth herein. Any violation of the statutes and Wright County Code, Chapter 90 herein adopted by reference is a violation of this code. If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and the animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to persons attempting to impound it, or if an animal has made more than one attack on a person or persons, the animal may be immediately killed by or under direction of an officer authorized to enforce the provisions of this section.

(B) Conflict of laws. When any provision of this section, Wright County Code, Chapter 90, state law applicable to dangerous or potentially

dangerous dogs are in conflict, the provision that imposes the greater restrictions or protections shall apply.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.12 DISEASED ANIMALS.

(A) Running at large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of any person, even though the animal be properly licensed under this chapter.

(B) Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person or officer. The officer shall have a licensed veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the city, the officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable for a time to cover the cost of disposing of the animal, and a per day maintenance charge and the costs of any veterinarian examinations. The amount of the fine and charges shall be as set by City Council.

(C) Release. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.13 BASIC CARE.

All animals shall receive from their owners or keepers a kind treatment, clean and sanitary shelter from the elements and sufficient food and water for the animal's comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this chapter.

(Ord. 0303, passed 4-8-03)

§ 90.14 ENFORCEMENT.

(A) Enforcement authority. The provisions of this chapter shall be enforced by the Animal Control Authority and those representatives/contractors designated by the City Council. The Animal Control Authority may issue citations for violations of this chapter.

(B) Right of entry. The Animal Control Authority shall have the right to enter upon any premises at all reasonable times for the purpose of discharging the duties imposed by this chapter, where there is a reasonable belief that a violation has been committed.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.15 IMPOUNDING.

(A) Running at large. Any designee of the city's law enforcement agency or representative/contractor of the city or citizen may impound any dog found unlicensed or any dog found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the impounding person shall post a notice at the City Hall that if the dog is not claimed within five regular business days of the posting of the notice, it will be sold or otherwise disposed of according to State Statute § 35.71. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs running at large.

(B) Animal bites and quarantine. Whenever any animal shall have bitten a person or there is a good reason to believe that such animal has bitten a person, this incident should be reported within 24 hours to the city's law enforcement agency and thereafter the owner of such animal shall comply with the instructions of the department concerning the animal. An animal which bites a person shall be quarantined for ten days, if ordered by the law enforcing agent or health authority. During such quarantine, the animal shall be securely confined and kept from contact with any other animal. The quarantine may be on the premises of the owner if approved by the enforcing agent. If the enforcing agent requires other confinement, the owner shall place the animal in a veterinary hospital at the owner's expense.

(C) Reclaiming. All animals conveyed to the animal control authority shall be kept, with kind treatment and sufficient food and water for the animal's comfort, at least five regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the animal control authority, the following shall be required, unless otherwise provided for in this code:

- (1) Payment of a release fee as set in the fee schedule;
- (2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) Proof of a valid certificate of vaccination for rabies is required. If the owner is unable to provide proof of a current rabies vaccination, the owner shall agree in writing to vaccinate the dog and file a certificate of vaccination with the city within a two-week period of the date the dog was reclaimed from the pound.

(D) Unclaimed animals. At the expiration of five regular business days from the time any animal is impounded, if the animal has not been reclaimed in accordance with the provisions of this section, the representative appointed to enforce this chapter may let any person claim the animal by complying with all provisions set forth in this section. (M.S. § 35.71 subd. (3), states at the end of the five-day period, all animals which remain unredeemed must be made available to any licensed institution which has requested that number of animals.)

(E) Abandonment. It shall be unlawful to abandon any dog or other animal within the city. Any animal left by the owner, keeper, or caretaker beyond five working days after being notified, as required by § 90.15(A) by the animal control authority, shall be deemed abandoned and may be disposed of according to § 90.15(D). The owner of the abandoned animal shall be liable for payment of all fees and expenses incurred by the city for the care and/or disposal of the animal.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.16 ADOPTION BY REFERENCE.

Any federal laws or Minnesota State Statutes as they pertain to domestic, non-domestic, and farm animals, are adopted by reference and are as much a part of this chapter as if fully set forth herein. Any violation of these laws or statutes adopted herein by reference is a violation of this code.

(Ord. 0303, passed 4-8-03; Am. Ord. 2103, passed 12-14-21)

§ 90.99 PENALTY.

(A) Separate offenses. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.

(B) Misdemeanor. Any owner as defined in § 90.01 violating any provision of Chapter 90 shall be guilty of a misdemeanor and subsequent violations by the same owner and animal shall be considered a gross

misdemeanor. Upon conviction, the owner shall be subject to the maximum fine provided for by Minnesota Statutes.

(Ord. 0303, passed 4-8-03)

CHAPTER 91: HEALTH AND SAFETY; NUISANCES

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GENERAL PROVISIONS

§ 91.01 ASSESSABLE CURRENT SERVICES.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CURRENT SERVICE. Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and

removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) Snow, ice, dirt and rubbish.

(1) Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) Removal by city. The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) Public health and safety hazards. When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

(D) Installation and repair of water service lines. Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) Repair of sidewalks and alleys.

(1) Duty of owner. The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk.

(2) Inspections; notice. The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) Repair by city. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. The City Clerk shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) Personal liability. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(G) Damage to public property. Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) Assessment. On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 10.99

§ 91.02 TREE DISEASES.

(A) Trees constituting nuisance declared. The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurgopinus Rufipes* (Marsh);

(2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;

(5) Any other shade tree with an epidemic disease.

(B) Abatement of nuisance. It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) Record of costs. The City Clerk shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) Unpaid charges. On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 10.99

Cross-reference:

Trees and shrubs; tree preservation, see Chapter 94

NUISANCES

§ 91.15 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 91.16, 91.17 or 91.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 10.99

§ 91.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.

(L) The use of common drinking cups, or roller towels so designed that the same portion of the towel is repeatedly used by many people.

(M) To sell or offer for sale as unadulterated or undiluted an adulterated or diluted product for the use or consumption of man or beast.

(N) To sell or offer for sale any article whatsoever which has become spoiled, tainted, decayed, or for any cause unfit to be used for the purpose for which it was alleged to have been intended.

(O) To offer or expose for sale at retail for human food at any public market, store, shop, or house in or about any street or any public place any domestic or wild fowls or any slaughtered rabbits, squirrels or other small animals, wild or tame, unless the entrails, crops, and other offensive parts are properly drawn and removed.

(P) To slaughter fresh meat, fish, fowl, or game for human food, and while transporting said food from place to place, fail to protect the same from dust, flies, vermin, or any other substance or circumstances which may injuriously affect said product.

(Q) To directly or indirectly or otherwise scatter, distribute, or give away samples of any medicine, drugs, or medical compounds, salves, or liniments of any kind, unless the same is delivered into the hands of an adult person, or mailed to such adult persons through the regular mail service.

(R) Any rubbish, swill, offal, metal cans, or garbage (except in otherwise authorized containers), ashes, litter, debris, yard cleanings, dead animals, or other foul or unhealthy materials or other dangerous condition.

(S) Throwing or depositing any refuse in any stream or other body of water.

(T) To permit or suffer to be or remain offensive, hurtful, dangerous, unhealthy, or uncomfortable to any person or neighborhood any sewer, private drain, sink, pool, cesspool, outhouse, privy vault, putrid or unsound

flesh, meat, fish, skin, carcass, garbage, stagnant water, vegetable matter, weeds, rodents, vermin, or any other unwholesome or offensive substance, liquid, or other thing in or upon premises or land occupied by, or under the control of, the party allowing such a condition.

(U) Any excess construction materials, construction material shipping cartons, construction material packaging, and used materials which are present at the construction site and which are not secured with a cover or lid in a fully enclosed container or structure. Construction materials shall mean all materials of any type which are used in the construction of a house, building, or other structure, including, but not limited to lumber, plastics, metal, asphalt and fiberglass shingles, fiberglass, vinyl, glass, ceramic, and other composite building materials.

(V) The use or burning of any garbage, grasses, leaves, oils, rubber, plastics, tires, railroad ties, construction debris, and painted or chemically treated materials, such as lumber, composite shingles, tar paper, insulation composition board, sheetrock, wiring, paint and hazardous and industrial solid waste, in an exterior solid fuel-fired device.

(Ord. 76, passed 6-11-91; Am. Ord. 0404, passed 4-13-04; Am. Ord. 0703, passed 7-10-07) Penalty, see § 10.99

§ 91.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;

(B) Betting, bookmaking and prizefighting, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

(F) Public use of profane or obscene language; acts of persons tending to create a disturbance of the public peace and quiet of the community; and the use of loud, boisterous, or abusive language in public or which disturbs the tranquility of a neighborhood, or any acts that constitute disorderly conduct.

(G) The looking into or peeking through doors, windows, or openings of private homes by method of stealth and without proper authority and by surreptitious methods, or what is commonly known as "window peeping."

(Ord. 76, passed 6-11-91) Penalty, see § 10.99

§ 91.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, shrubs, billboards or other obstructions which adversely affect the public safety, whether such object shall be on public or private property;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code.

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, tape player, disc player, loud speaker, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to unreasonably disturb the peace, quiet and comfort of any person nearby.

(G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of any of the following items:

(1) Garbage, refuse, or similar materials on or within a public right-of-way, public property, streets, or on private property; or

(2) Lawn clippings, leaves, snow, yard waste, or similar materials on or within a public right-of-way, public property, streets, or adjacent private property;

(U) Accumulations or storage in the open of any of the following items or any parts or accessories thereto anywhere within the city limits:

(1) Inoperable machinery;

(2) Household appliances;

(3) Household furnishings;

(4) Motor vehicles which are not currently licensed or generally not being driven, or are being used for parts;

(5) Items which are not generally or normally used on the particular premises;

(6) Firewood which is not neatly stacked in a compact manner;

(7) Any accumulation of manure, rubbish, garbage, bottles, papers, cans, or junk of any nature or description;

(8) Any other materials or items of any kind or nature which tend to harbor rats, mice, snakes, or vermin or otherwise are a potential fire, health, or safety hazard from such accumulations;

(9) Accumulations of any items that tend to cause an unsightly appearance of the premises and which cause discomfort for any other members of the public who may be using their own or public property;

(10) Failure to screen or fence trash/garbage, recycling or yard waste containers, or dumpsters such that said containers or dumpsters are not visible from any public street or sidewalk, with the following exceptions:

(a) Residential garbage and recycling containers, and yard waste located curbside the evening before or during garbage or yard waste pick-up day.

(b) Dumpsters located upon a property on a temporary basis during the construction or alteration of any structure thereon.

(V) To make or keep nitroglycerin, other explosives or combustible material, or more than eight pounds of gunpowder in the city or carried through the streets without first obtaining a permit from the City Council.

(W) To sell or cause to be sold, place or caused to be placed, any gasoline or benzine or other highly flammable liquids in quantities of more than one pint and less than six gallons in any receptacle except one of a

bright red color and tagged and labeled in large plain letters with the name of the contents therein.

(X) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding one-half their original value, and which are so situated as to endanger the safety of the public.

(Y) All use or display of fireworks except as provided by city ordinance or code provision.

(Z) All buildings and all alterations to buildings made or erected in violation of the Uniform Fire Code.

(AA) All buildings and alterations to buildings made in violation of the state building code.

(AB) Any discarded or unused icebox, refrigerator, or other similar device or object which is left outside or in such condition so as to be accessible to any child being or coming upon the premises where the same is located.

(AC) Doing by means of a telephone, or permitting any telephone under one's control to be used for, any of the following:

(1) Making any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent;

(2) Making a telephone call, whether or not conversation ensues, without disclosing one's identity and with the intent to annoy, abuse, threaten, or harass any person at the called number;

(3) Making or causing the telephone of another to repeatedly or continuously ring with the intent to harass any person at the called number;

(4) Making or causing to be made a telephone call with the intent as a hoax to threaten to bomb, or to threaten that a bomb has been placed in, a building or any location other than a building where a bomb, if it were so placed, might cause injury or death to a person or damage to property.

(AD) The allowing of, or failure to prevent, soil, gravel, and other sediment to erode and become deposited upon any public street.

(Ord. 76, passed 6-11-91)

(AE) Construction and maintenance activities being performed by a contractor before 7:00 a.m. or after 7:00 p.m., Monday through Friday, before 8:00 a.m. or after 6:00 p.m. on Saturday, or any time on Sunday; and construction and maintenance activities being performed by a resident on the residents own property before 7:00 a.m. or after sunset as determined by the National Weather Service. Construction activities include without

limitation, building construction, grading, excavation and other site work, mowing, trimming or other landscaping, and other similar noise producing activities, EXCEPT: construction and maintenance activities performed by city public works personnel in their official capacity, such as street and other public works construction, utility repairs, flood prevention, snow removal and other similar construction activities OR snow removal on private property.

(Ord. 129, passed 8-8-00; Am. Ord. 1703, passed 5-23-17)

(AF) All other conditions or things which are likely to cause injury to the person or property of anyone. All acts, omissions, occupations, and uses of property which are deemed by the State Board of Health to be a menace to or injurious to the health of the inhabitants of the city or any number thereof.

(AG) Any fire or open flame on a balcony of any apartment, condominium or other similar structure or within ten feet of such structure in a portable device used for heating, lighting or food preparation; or store such a device on or in a balcony of any such aforementioned structure, EXCEPT: Approved electric or gas fired barbeque grills that are permanently mounted and wired, or plumbed to the structure's gas supply or electrical system and that maintain a minimum clearance of 18 inches on all sides. Approved appliances of lesser clearances may be installed based on the manufacture's recommendation for use on balconies and patios.

(Ord. 0204, passed 8-13-02; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1703, passed 5-23-17; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1902, passed 5-14-19; Am. Ord. 2004, passed 11-10-20) Penalty, see § 10.99

§ 91.19 DUTIES OF CITY OFFICERS.

The Police Department or Sheriff, if the city has at the time no Police Department, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

§ 91.20 ABATEMENT.

(A) Notice. Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order;

and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) Notice of violation. Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) Notice of City Council hearing. Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) Notice of City Council order. Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) Notice of motion for summary enforcement. Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(B) Procedure. Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(C) Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the

nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 10.99

§ 91.21 RECOVERY OF COST.

(A) Personal liability. The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(B) Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 10.99

VEGETATION AND LANDSCAPING MAINTENANCE

§ 91.35 PURPOSE.

It is the purpose of this subchapter to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping or garden treatments that add diversity and richness to the quality of life. There are reasonable expectations regarding the maintenance of vegetation because vegetation that is not maintained may threaten public health, safety, and order, and may decrease adjacent property values. It is also in the public's interest to encourage diverse landscaping and garden treatments, particularly those that restore native vegetation, which requires less moisture and place a lower demand on the public's water resources.

(Ord. 2004, passed 11-10-20)

§ 91.36 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DESTRUCTION ORDER. The notice of the ordinance violation served on the property by a designated city official.

GARDENS. Cultivated areas dedicated to growing vegetables, fruits, flowers, ornamental grasses, shrubs, and similar plants, planted and maintained in well-defined borders.

NATIVE PLANTS. Grasses, including meadow vegetation, sedges (solid, triangular- stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees, and shrubs, that are plant species native to or naturalized to the State of Minnesota, excluding prohibited exotic species defined by M.S. Ch. 84D. Native plants do not include weeds.

NATIVE PLANT LANDSCAPE AREAS. Areas where native plants are being or have been planted in a well-defined and maintained border. Native plant landscape areas do not include gardens.

NATURAL AREAS. Undeveloped landscapes not changed, altered, moved, cultivated or planted by human or mechanical means, and which do not contain turfgrass.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

RAIN GARDENS. Shallow landscape features planted with moisture-loving wildflowers, grasses, shrubs and trees, used to manage storm water run-off by allowing water to soak into the ground.

TURFGRASS. Commercially available cultured grass varieties that are grown to create turf, including bluegrass, fescue, and ryegrass blends, commonly used in regularly cut lawn areas.

WEEDS. Includes but is not limited to the following:

(1) Noxious weeds as defined and designated pursuant to the "Minnesota Noxious Weed Law," M.S. §§ 18.76-18.91, as amended from time to time.

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years.

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties.

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, garden plants or other ornamental plants, growing to a height exceeding 12 inches.

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(Ord. 0406, passed 7-13-04; Am. Ord. 2004, passed 11-10-20)

§ 91.37 OWNERS RESPONSIBLE FOR TRIMMING, MAINTENANCE, REMOVAL AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of eight inches in height on any property with a structure, and 12 inches on all other properties. This section shall not apply to the following areas:

(A) Gardens, rain gardens and native plant landscape areas as allowed in § 91.38 of this subchapter;

(B) City park lands and natural areas owned by the city and rights-of-way owned and maintained by the county and state;

(C) Natural wooded areas;

(D) Ponding areas and wetlands;

(1) A strip of vegetation may be established between the normal water level and the high-water level of not more than 20 feet. This strip of vegetation shall be allowed to grow to any height; however, any noxious weeds must be controlled and eradicated;

(E) Officially-designated floodplains;

(F) Areas where mowing is prohibited by easement or law; or

(G) Agricultural areas, as determined by the Zoning Administrator.

(Ord. 0405, passed 5-11-04; Am. Ord. 0406, passed 7-13-04; Am. Ord. 0805, passed 6-24-08; Am. Ord. 2004, passed 11-10-20)

Penalty, see § 10.99

§ 91.38 NATIVE PLANT LANDSCAPE AREA REQUIREMENTS.

Native plant landscape areas shall meet the following requirements:

(A) Native plant landscape areas may include plants and grasses eight inches or more in height and which have gone to seed, but may not include any weeds or noxious weeds and must be maintained so as to not include unintended vegetation;

(B) Native plant landscape areas shall not include any plantings, which due to location and manner of growth constitute a hazard to the public or may cause injury or damage to persons or property when such growth is in violation of other applicable sections of city code;

(C) Native plant landscape areas shall not occupy more than 50% of the pervious surface area of the parcel, excluding natural wooded areas, wetlands, water bodies, rain gardens and conservation easements;

(D) Native plant landscape area is setback a minimum of 15 feet from the front property line. On corner lots both street sides shall be deemed a front yard;

(E) A buffer strip not less than five feet from side and rear property lines must be maintained when a native plant landscape area covers more than 25% of the landscaped area of the entire yard. A buffer strip is not, however, required if:

(1) A fully opaque fence at least four feet in height is installed along the lot line adjoining the managed natural landscape area;

(2) The adjacent property is not being used for residential purposes; or

(3) The adjacent residential property also contains a managed natural landscape area covering more than 25% of the landscaped area of the entire yard.

(F) Native plant landscape areas shall not include turf-grass lawns left unattended for the purpose of returning to a natural state; and

(G) The area is maintained according to current industry standards for the kind of vegetation being grown, to include seasonal cutting as appropriate.

(Ord. 2004, passed 11-10-20)

§ 91.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

§ 91.40 NOTICE OF VIOLATIONS.

(A) First notice. When the owner and/or occupant permits a nuisance to exist in violation of § 91.38, the Weed Inspector, or his or her assistants will forward written notification in the form of a "Destruction Order" to the owner, occupant or agent of the owner of the lot or parcel of land ordering the person to have the weeds or grass cut and removed or otherwise eradicated or removed within seven days after the receipt of the notice which will also state in the event of noncompliance, removal will be done by the city at the owner's expense. The notice shall be served in writing by certified mail with a return receipt. When no owner, occupant or agent of the owner can be found, notice shall be sent by certified mail with a return receipt to the person who is listed on the records of the County Auditor or County Treasurer as the owner, and a copy of the notice will be posted on the property. Service will be complete with the certified mailing and posting.

(B) Subsequent notice. Any subsequent violation of § 91.38 on the same property in the same calendar year shall not be subject to the seven day notification period, but the property will be posted with a "Destruction Order" to the owner, occupant or agent of the owner of the lot or parcel of land ordering the person to have the weeds or grass cut and removed or otherwise eradicated within 48 hours of such posting. It is the current

owner's responsibility to forward all nuisance violations to any future owners.

(Ord. 0406, passed 7-13-04; Am. Ord. 0804, passed 5-27-08)

§ 91.41 APPEALS.

The property owner may appeal by filing written notice of objections with the city within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the city. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(Ord. 0406, passed 7-13-04)

§ 91.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven days, or any subsequent "Destruction Order" within 48 hours and has not filed a notice of an intent to appeal, the city may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

(Ord. 0406, passed 7-13-04; Am. Ord. 0804, passed 5-27-08)

§ 91.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

§ 91.44 PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished as provided in § 10.99.

(Ord. 2004, passed 11-10-20)

OPEN BURNING

§ 91.60 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a “recreation fire site” as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, "presto logs," charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

§ 91.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.

Penalty, see § 10.99

§ 91.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 91.60.

Penalty, see § 10.99

§ 91.63 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(B) Fire Training permits can only issued by the Minnesota Department of Natural Resources.

Penalty, see § 10.99

§ 91.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by ordinance, as it may be amended from time to time.

Penalty, see § 10.99

§ 91.65 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

§ 91.66 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 10.99

§ 91.67 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 10.99

§ 91.68 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

§ 91.69 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 10.99

EXTERIOR SOLID FUEL-FIRED DEVICES

§ 91.70 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

EXTERNAL SOLID FUEL-FIRED HEATING DEVICE. An external device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, fireplaces, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs.

PUBLIC NUISANCE. Maintaining or permitting a condition which unreasonable annoys, injures or endangers the health, morals, decency, safety, or public peace so that such activities affect the comfortable enjoyment of life or property.

STACKS OR CHIMNEYS. Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, including the part of such a vertical structure extending above a roof.

(Ord. 0701, passed 1-9-07)

§ 91.71 PERMIT REQUIRED.

A mechanical permit issued in compliance with the requirements of Section 106 of the International Mechanical Code shall be required to install any external solid fuel-fired heating device.

(Ord. 0701, passed 1-9-07) Penalty, see § 91.73

§ 91.72 OTHER REQUIREMENTS.

Any exterior solid fuel-fired heating device installed after January 1, 2007, must meet the following requirements:

(A) Exterior solid fuel-fired heating devices shall be permitted only in the A-1 and A-2 Zoning Districts.

(B) External solid fuel-fired heating devices shall be located at least 75 feet from any property line and shall only be located in the rear yard or in the side yard in the case of a corner lot.

(C) All stacks or chimneys must be constructed:

(1) To withstand high winds or other related elements;

(2) According to the specifications of the manufacturer of the external solid fuel-fired heating device; and

(3) Of masonry or insulated metal with a minimum six-inch flue.

(D) All external solid fuel-fired heating devices installed or purchased within the city are required to meet the emission standards currently required (or as may be amended from time to time) by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.

(E) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, created by the use of an external solid fuel-fired heating device or any use of an external solid fuel-fired heating device to burn solid fuels, other than those solid fuels for which the external solid fuel-fired heating device was designed, are declared a public nuisance.

(F) All external solid fuel-fired heating devices installed within the city shall be listed and labeled by a nationally recognized testing laboratory and installed according to the manufacturer's recommendations.

(G) The following materials shall not be used or burned in external solid fuel-fired heating devices: garbage, grasses, leaves, oils, rubber, plastics, tires, railroad ties, construction debris, and painted or chemically treated materials such as treated lumber, composite shingles, tar paper, insulation composition board, sheetrock, wiring, paint and hazardous and industrial solid waste.

(Ord. 0701, passed 1-9-07; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1905, passed 12-10-19) Penalty, see § 91.73

§ 91.73 PENALTY.

Any violation of this subchapter is a misdemeanor. Each day a violation occurs is a separate offense.

(Ord. 0701, passed 1-9-07)

RULES AND LAWS

§ 91.80 ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22 and the Minnesota Uniform Fire Code, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth herein.

(Ord. 0701, passed 1-9-07)

CHAPTER 92: PARKS AND RECREATION

Section

92.01 Purpose

92.02 Definitions

92.03 Park and recreational area regulations

92.04 Exclusive use

92.05 Permits

92.98 Violations; rewards

92.99 Penalty

Cross-reference:

Bow and arrow use prohibited, see § 130.04

Firearms prohibited, see § 130.03

§ 92.01 PURPOSE.

The purpose of this chapter is to regulate certain activities within the city parks in order to promote the public safety and convenience.

(Ord. 48, passed 5-11-82)

§ 92.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person or organization seeking a permit to use or conduct an activity in a park or recreational area.

CITY. City of St. Michael.

DIRECTOR. Community Development Director or his/her designee.

FIREARM. Includes handguns, rifles, shotguns, pellet guns, BB guns, and any other device designed to eject a projectile from a barrel.

MOTOR VEHICLE, LICENSED. Any self-propelled motor vehicle licensed by the state or some other state for use on public streets.

MOTOR VEHICLE, UNLICENSED. Any self-propelled vehicle not registered or licensed for use on public roads by this state or some other state, including, but not limited to, a two- or three-wheel motorcycle, a snowmobile (whether licensed or not), a go-cart, and an all terrain vehicle, whether two-, three- or four-wheeled.

PARK or PUBLIC PARK. All outdoor recreation areas within the city including roadways contained therein either owned or operated by the city. Such areas shall include, but shall not be limited to, grounds, ball fields, open spaces, trails, skating rinks, and all open areas around the city's sewer lagoons.

PERMIT. Any written license issued by or under the authority of the Director or City Council permitting a use, event, or activity in the park system.

RECREATIONAL AREA. Any area, including parks, bathing beaches, parking lots, roadways and other lands open to the public for recreational purposes of any type, owned, leased, maintained, or managed by the City of St. Michael.

(Ord. 48, passed 5-11-82; Am. Ord. 1703, passed 5-23-17)

§ 92.03 PARK AND RECREATIONAL AREA REGULATIONS.

(A) **Alcoholic beverages.** No person shall bring into any park nor possess, display, consume or use intoxicating liquor in any park, except as allowed by city policy adopted from time to time.

(B) **Camping.** No person shall set up tents, shacks or any other temporary shelter, nor shall any person leave in any park after closing hours any movable structure without written permission from the city.

(C) Equipment. No person shall willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, waste receptacle, fireplace, railing, paving or paved material, waterline or other public utility or part or appurtenance thereof, sign, notice or placard (whether temporary or permanent), monument, stake, post or other boundary marker, or other structure, equipment, park property or park appurtenances whatsoever, either real or personal.

(D) Fires. Fires are prohibited in city parks except in a metal grill provided and installed by the city. No person shall leave before the fire has been completely extinguished, and all garbage, trash, and refuse have been placed in the receptacles provided. Where no receptacles have been provided, all garbage, trash and refuse shall be carried away from the park area and shall be properly disposed of elsewhere.

(E) Firearms and fireworks. Except as otherwise permitted by law in this code, no person shall within the limits of any park or parkway, fire or discharge any cannon, fowling piece, pistol, revolver, paintball gun, airsoft gun, or firearm of whatever description or fire, explode or set off any firecracker, or any other thing containing powder or other combustible or explosive material.

(F) Golfing. No person shall play the game of golf or engage in putting, practice swinging of a golf club or the striking of any golf balls in any city park.

(G) Hours. All public parks owned and operated by the city shall be open for public use between the hours of 6:00 a.m. and 10:00 p.m. daily. It shall be unlawful for any person to be present in a city park for any purpose between the hours of 10:00 p.m. and 6:00 a.m.

(H) Litter. No person shall litter in any city park, pond or water course within or draining into a city park with any form of trash or waste material. Such trash or waste material shall be deposited in the proper receptacles when provided; where receptacles are not provided, all trash or waste material shall be carried away from the area by the person responsible for its presence.

(I) Natural resources. No person shall willfully and without authority cut, pluck, remove, or otherwise injure any flowers, shrubs or trees growing in or around any public park, or on other public lands.

(J) Motor vehicles. Licensed motor vehicles may be driven and operated by a duly licensed person within city parks, but only upon entrance and exit roadways and in duly designated parking areas. Driving or operating unlicensed motor vehicles in any portion of a city park or public trail is prohibited, except by authorized city personnel. No licensed or unlicensed motor vehicle may exceed the speed of 15 miles per hour on any roadway or

parking area within a city park and shall otherwise be driven and operated in a safe and careful manner.

(K) Park closing. The city may close any public park at any time for such period as the city deems necessary, in order to protect, restore or maintain order, terminate or prevent breaches of the peace and order. No person having been informed of such an order closing any such area shall remain in the area longer than is necessary to leave the closed area.

(L) Parking. No motor vehicle, trailer or equipment may be left standing or parked within a city park between the hours of 10:00 p.m. and 6:00 a.m. Any such vehicle, trailer or equipment found in a city park between these hours may be towed and impounded by any duly authorized city police officer or county sheriffs deputy. It shall be unlawful for any person to park or store any vehicle, trailer or equipment on park property unless such person is utilizing the park property while the person's vehicle is located upon the park property.

(M) Pets. Pets are allowed in city parks provided they are under restraint and their waste is disposed of properly. No pets other than service animals are permitted on athletic fields.

(N) Powered model aircraft. Powered model aircraft may only be flown in areas which will not interfere with sport games or any other park activities.

(O) Public sales. No person within any park or public property, shall expose, offer for sale, rent, or hire any article or thing unless such person shall have obtained prior written approval to do so from the City Administrator. No person shall announce, advertise, or call the public attention to any article or service for sale or hire in any way.

(P) Swimming. Persons who swim in a city park that has a pond, river or stream shall do so at their own risk as lifeguards are not provided in any city park.

(Ord. 1703, passed 5-23-17; Am. Ord. 1802, passed 6-12-18)

§ 92.04 EXCLUSIVE USE.

No person, firm, corporation, or group shall make any use of any recreational area to the exclusion of the general public, or charge admission to any such recreational area for any event or use, without a permit as found in § 92.05.

(Ord. 1703, passed 5-23-17)

§ 92.05 PERMITS.

Any person, firm, corporation or group of persons desiring the exclusive use of all or a portion of specific areas, buildings or facilities within a city park or recreational area for conducting special events of a cultural, educational, political, religious or recreational nature which are not activities or events sponsored or held under the direction of the city, shall first obtain a permit issued by the city authorizing such exclusive use. Such permits shall be obtained by application in accordance with the following procedure:

(A) Application. A person seeking issuance of such permit shall submit a written application on a form supplied by the city.

(B) Issuance. Standards for issuance of an exclusive use permit shall include, without limitation, the following, as determined by the Director:

(1) That the proposed activity or use of the park or recreational area will not unreasonably interfere with or detract from the general public's enjoyment of the park or recreational area.

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.

(4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the city.

(5) That the facilities desired have not been reserved for other use on the date and hour requested in the application and are available for the requested use and activity.

(6) That the proposed activity and use are suitable for the class of the park or recreational area.

(C) Appeal. Upon receipt of a complete application, the Director shall inform the applicant in writing of the decision to grant or deny a permit; in the event of a denial, the notification shall include the reason for the denial. The applicant shall have the right to appeal the Director's decision to the City Council by serving written notice thereof on the City Clerk within five working days of the denial of the requested permit.

(D) Insurance. Prior to issuance of a permit, the applicant shall provide the city with proof of insurance in the amount and as described on the application form.

(E) Revocation. The Director or the City Council is authorized to revoke a permit immediately upon a finding of a violation of any park or recreational area rule, ordinance or permit condition.

(F) Liability. The applicant shall be liable for any loss, damage or injury sustained by virtue of the activity conducted.

(G) Portable toilets. For gatherings of more than 100 persons or where beer is sold or distributed in connection with the activity, the Director, as a condition of the issuance of any permit, may require the applicant to supply such self-contained portable toilet facilities as the Director deems appropriate.

(Ord. 1703, passed 5-23-17)

§ 92.98 VIOLATIONS; REWARDS.

The City Council has the authority to offer and pay a reward for information leading to the arrest and conviction of any person violating any provision of this chapter.

(Ord. 48, passed 5-11-82)

§ 92.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished as provided in § 10.99.

(Ord. 48, passed 5-11-82)

CHAPTER 93: STREETS AND SIDEWALKS

Section

General Provisions

93.01 Sidewalks and curbs

93.02 Culverts

Right-Of-Way Construction Regulations

93.20 Election to manage the public right-of-way

93.21 Definitions and adoption of rules by reference

93.22 Permit requirement

93.23 Permit applications

- 93.24 Issuance of permit; conditions
- 93.25 Permit fees
- 93.26 Right-of-way patching and restoration
- 93.27 Supplementary applications
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- 93.35 Location of facilities
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- 93.37 Right-of-way vacation
- 93.38 Indemnification and liability
- 93.39 Abandoned facilities; removal of abandoned facilities
- 93.40 Appeal
- 93.41 Reservation of regulatory and police powers

Cross-reference:

Assessable current services, see § 91.01

GENERAL PROVISIONS

§ 93.01 SIDEWALKS AND CURBS.

All sidewalks and curbs hereinafter constructed, altered, or repaired shall be of a uniform width and shall be built on the grade now or hereafter established, and the outer edge shall be as nearly as possible on a straight line, and shall conform to specifications approved by the City Council.

(Ord. 4, passed 3-24-50) Penalty, see § 10.99

§ 93.02 CULVERTS.

(A) Required installation. Wherever any driveway, service way, private road, or access is established, made, improved, or installed which intersects, crosses, or joins upon any public road maintained by the city, and by virtue of such intersection, crossing, or joining the passage or flow of water adjacent to the public road is or would be dammed, slowed, altered, or in any way interfered with, a culvert shall be installed in conjunction with and coordinate with the construction, establishment, improvement, or installation of any such driveway, service way, private road, or access. All such culverts shall be installed in conformance with the specifications established by this section.

(B) Minimum requirements.

(1) Permitted materials. All culverts shall:

(a) Be constructed of new, corrugated galvanized steel pipe of at least 16-gauge thickness, unless the City Engineer approves in writing the use and specifications of plastic pipe; and

(b) Have a diameter sufficient to allow unrestricted flow or drainage of all surface waters. The minimum diameter for such pipe shall be 15 inches and the maximum length shall be 32 feet, unless written authorization to vary is received from the City Engineer.

(2) Flared ends. All culverts shall have flared ends.

(3) 4 to 1 slope. A 4 to 1 slope shall be maintained around all culverts installed pursuant to this section.

(C) Permit required. Prior to the installation of any culvert pursuant to this section, a permit for the installation shall be obtained from the city. The cost for a permit shall be as set by the Council of the city from time to time. The City Building Official shall inspect the installation of all such culverts to ensure compliance with the requirements of this section.

(D) Enforcement.

(1) Criminal. Any person violating any provision of this section shall be guilty of a misdemeanor, punishable according to law.

(2) Civil. In addition to any other penalty herein provided, the city shall have the right to seek the order of any court of competent jurisdiction ordering the installation of any culvert required by the provisions of this chapter. In addition, the city shall have the right to recover actual monetary damages incurred as the proximate result of any violation of this section, or

the enforcement by the city of this section, including the city's costs and disbursements and reasonable attorney fees.

(Ord. 105, passed 6-10-97) Penalty, see § 10.99

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

§ 93.20 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

§ 93.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.

§ 93.22 PERMIT REQUIREMENT.

(A) Permit required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) Excavation permit. An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) Obstruction permit. An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) Permit extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before

the expiration of the initial permit, and a new permit or permit extension is granted.

(C) Delay penalty. In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by ordinance, as it may be amended from time to time.

(D) Permit display. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Penalty, see § 10.99

§ 93.23 PERMIT APPLICATIONS.

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against

liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by ordinance, as that ordinance may be amended from time to time, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges as established by ordinance, as that ordinance may be amended from time to time, if applicable.

§ 93.24 ISSUANCE OF PERMIT; CONDITIONS.

(A) Permit issuance. If the applicant has satisfied the requirements of this chapter, the Director shall issue a permit.

(B) Conditions. The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to

protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 93.25 PERMIT FEES.

Permit fees shall be in an amount established by ordinance, as it may be amended from time to time.

(A) Excavation permit fee. The city shall establish an excavation permit fee as established by ordinance, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) Obstruction permit fee. The city shall establish the obstruction permit fee by ordinance, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

(C) Payment of permit fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) Non-refundable. Permit fees as established by ordinance, as may be amended from time to time, that were paid for a permit that the Director has revoked for a breach as stated in § 93.33 are not refundable.

(E) Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time.

Penalty, see § 10.99

§ 93.26 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.

(B) Patch and restoration. The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

(1) City restoration. If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

(C) Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule part 7819.1100, as it may be amended from time to time. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) Duty to correct defects. The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

(E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by ordinance, as may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

§ 93.27 SUPPLEMENTARY APPLICATIONS.

(A) Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

§ 93.28 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 93.29 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

§ 93.30 INSPECTION.

(A) Notice of completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule part 7819.1300, as it may be amended from time to time.

(B) Site inspection. The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) Authority of Director.

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 93.33.

§ 93.31 WORK DONE WITHOUT A PERMIT.

(A) Emergency situations.

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

§ 93.32 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Director of the accurate information as soon as this information is known.

§ 93.33 REVOCATION OF PERMITS.

(A) Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.30.

(B) Written notice of breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) Response to notice of breach. Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

§ 93.34 MAPPING DATA; INFORMATION REQUIRED.

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

§ 93.35 LOCATION OF FACILITIES.

(A) Compliance required. Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) Corridors. The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) Limitation of space. To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

§ 93.36 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

§ 93.37 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

§ 93.38 INDEMNIFICATION AND LIABILITY.

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, as it may be amended from time to time.

§ 93.39 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director.

§ 93.40 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§ 93.41 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

CHAPTER 94: TREES AND SHRUBS

Section

General Provisions

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Tree Preservation Regulations

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Cross-reference:

Tree diseases, see § 91.02

GENERAL PROVISIONS

§ 94.01 ADOPTION OF STATE REGULATIONS.

The rules of the Minnesota Department of Agriculture for the Shade Tree Disease Control Program, Minnesota Rules parts 1505.0010 through 1505.0600, are hereby adopted by reference as an ordinance of the city and are hereby incorporated in and made a part of this chapter as completely as if set out herein in full except insofar as the same may be inconsistent with the provisions of this chapter as hereinafter provided.

(Ord. 44, passed 6-26-79)

§ 94.02 BARK-BEARING ELM WOOD.

Any bark-bearing elm wood may be stockpiled within the city limits during the period of September 15 through April 1. Any such wood not utilized by April 1 must then be removed and disposed of as provided by law.

(Ord. 44, passed 6-26-79) Penalty, see § 10.99

TREE PRESERVATION REGULATIONS

§ 94.15 PURPOSE, SCOPE AND INTENT.

(A) Purpose. It is the policy of the City of St. Michael to recognize and protect the integrity of the natural environment of the community through the preservation, protection, and planting of trees. The City Council has found it necessary and desirable to establish requirements for the preservation of trees on new development sites. The objectives of this subchapter shall include, but are not limited to:

- (1) The perpetuation of the existing tree canopy through root protection by eliminating or reducing compaction, filling or excavation;
- (2) Prevention of soil erosion and sedimentation;
- (3) Reduced storm water runoff;
- (4) Improved air quality;
- (5) Reduced noise pollution;
- (6) Energy conservation through natural insulation and shading;
- (7) Control of the urban heat island effect;
- (8) Increased property values;
- (9) Protection of privacy by establishing and maintaining buffers between conflicting land uses;
- (10) Providing habitat for wildlife;
- (11) Conservation of St. Michael's physical and aesthetic "Big Woods" environment; and
- (12) To provide an ecosystem approach to planning and development.

(B) Scope. This subchapter shall apply to the following in the City of St. Michael:

- (1) All sites for which application for a subdivision review is being made.
- (2) All sites for which application for a site plan review is being made.
- (3) Forested areas may not be removed at a rate greater than one acre in size per landowner per year.

(C) Intent. It is the intent of this subchapter to:

- (1) Preserve a continuous tree canopy throughout the site and extending into adjoining properties whenever possible. (Continuous green/wildlife corridors);
- (2) Preserve specimen trees;
- (3) Preserve mix of tree ages, sizes, and species;
- (4) Preserve the existing under-story and forest floor vegetation;
- (5) Preserve both front and backyard trees in residential developments with custom lot development and site specific roadway alignments;
- (6) Encourage building types, sizes and footprints appropriate to site specific conditions;
- (7) Support and augment the Comprehensive Park, Trails and Open Space.

(Ord. 125, passed 5-11-99)

§ 94.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

CRITICAL ROOT ZONE. The circular area under the tree as determined by one foot of radius for each one inch of diameter.

DISTURBANCE ZONE. Any area which will be physically altered from its natural state. This will include all areas of grading, utility installation, building pads, driveways, and parking areas.

PROTECTED, PRESERVED, OR UNDISTURBED TREE. Any tree with no less than 60% of the critical root zone left undisturbed or which has been protected during the construction process by the tree protection methods described herein.

SIGNIFICANT TREES. Trees which are healthy and measure a minimum of eight inches in diameter at a distance of 54 inches above ground.

(Ord. 125, passed 5-11-99)

§ 94.17 TREE PRESERVATION REQUIREMENTS.

Unnecessary removal or disturbance of all trees of significant size and health when locating and building roads, utilities, structures, and the like shall be avoided. A certain amount of tree removal is an inevitable

consequence of the urban development process. However, with proper management and the use of innovative design techniques, loss or damage to significant trees can be minimized.

(A) Removal threshold. Significant tree removal or disturbance beyond a 40% removal threshold shall require reforestation. Calculation of the removal threshold shall be based on continuous forest cover of 2,500 square feet or more as determined by the Zoning Administrator using available resources (i.e. aerial photo, site visit).

(B) Reforestation requirements. For development that exceeds the significant tree removal threshold, the developer will be required to reforest appropriate areas within the subdivision or site, on a one for one diameter-inch of excess removal. If it is demonstrated to be impractical to plant all reforestation trees on the site, the City Council, at its discretion, may select alternate sites, if the alternate site is owned by the developer/builder or by the City of St. Michael. Reforestation plans shall be set forth in the development contract for the plat. Tree replacement requirements do not constitute landscape ordinance requirements.

(Ord. 125, passed 5-11-99)

§ 94.18 REQUIREMENTS FOR TREE PRESERVATION PLANS.

Prior to the submittal of a tree preservation plan, a conceptual site plan and site analysis shall be submitted that provides the following information:

(A) Concept plan.

(1) Location and extent of existing forest canopy cover with site topography (2-foot contours) and slope analysis (12-18% and over 18%)

(2) Written description of the forest by tree type, size, general health and quality of the forest. Description shall include typical under-story and forest floor plant materials. Description shall be mapped and

graphically illustrate the context of the existing forest canopy and topography exhibit.

(3) Proposed locations of buildings, pads, roadways and other structures.

(4) Visual impact of development on woodlands, internally and from external view corridors.

(5) Soils and extent of proposed disturbance zones.

(6) Wetlands and other protected water bodies.

(7) Other significant natural features.

(B) Preliminary plat and site plan review.

(1) A tree preservation plan shall be submitted with the application for preliminary plat or site plan approval. The tree preservation plan shall be prepared by a landscape architect or forester and by a registered surveyor, unless otherwise approved by the city, and shall provide the following information:

(a) A tree survey identifying the location, number, size (diameter) and species of all significant trees proposed to be removed, disturbed or preserved. The tree survey shall be omitted if at least 50% of the tree canopy is preserved as determined by the Zoning Administrator using available resources (i.e. aerial photo, site visit);

(b) Proposed disturbance zones;

(c) Location and dimension of preliminary building pads and construction zone proposed on each buildable lot;

(d) Proposed locations and details of tree protection fencing to be installed for all trees to be preserved;

(e) A reforestation plan if the amount of tree removal exceeds the thresholds provided by this subchapter.

(2) The conceptual site plan, site analysis and tree preservation plan shall be reviewed and evaluated by a representative of the city. The city may make recommendations for adjustment of locations of structures, roadways, utilities, or other elements that may be necessary to enhance tree preservation and reforestation efforts.

(Ord. 125, passed 5-11-99)

§ 94.19 REQUIREMENTS FOR REFORESTATION PLANS.

If the removal or disturbance of trees proposed by the preservation plan exceeds the thresholds of this ordinance, a reforestation plan shall be submitted as part of the tree preservation plan. The reforestation plan shall be prepared and signed by a licensed forester or a registered landscape architect and shall meet the following criteria:

(A) All reforestation trees by location, size (diameter) and species;

(B) No more than one-fourth of the trees may be from any one species;

(C) Plant materials shall be of a similar vegetation as found on site and preference given for trees designated as native;

(D) Minimum sizes shall be: Deciduous - no less than 2½" caliper;
Coniferous - no less than 6' high;

(E) Installation shall follow City Standard Details;

(F) Trees shall be from certified nursery stock as defined and controlled by M.S. §§ 18.44 through 18.61, the Plant Pest Act;

(G) Trees shall be covered by a minimum two-year guarantee.

(Ord. 125, passed 5-11-99)

§ 94.20 TREE PROTECTION MEASURES.

The following measures for the preservation and protection of trees shall be required:

(A) Required protective measures. Measures required to protect significant trees and significant woodlands shall include:

(1) Installation of orange polyethylene laminate safety netting and metal stakes placed along the disturbance zone and around significant trees to be saved;

(2) Prevention of soil compaction or alteration of existing grades in critical root zones;

(3) Placement of utilities in common trenches outside of the critical root zone of significant trees, or use of tunneled installation;

(4) Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuel or paints;

(5) Calculation of critical root zones of all significant trees near disturbance zone and adherence to maximum 40% removal of critical root zone;

(6) Root pruning during construction along all disturbance zones shall be done by hand with a chainsaw or with a Vermeer designed for root sawing (machine will shatter roots);

(7) Tree stumps to be removed by grinding, not with a bulldozer, in all areas where root pruning does not occur;

(8) Natural ground cover (not sod) shall be maintained where clusters or areas of significant trees exist;

(9) No vehicles or equipment parking or driving out of the construction boundaries;

(B) Optional protective measures. Measures to protect significant trees and significant woodlands may include, but are not limited to:

- (1) Installation of retaining walls to preserve trees;
- (2) Reduced row and paved areas when it can be illustrated that such variances save trees;
- (3) On-site layout of roads and house pads;
- (4) Flaglots and other unconventional lot shapes when it can be illustrated that such variances save trees;
- (5) Variable setbacks when it can be illustrated that such variances save trees;
- (6) Larger lots in treed areas;
- (7) Common washout pond for cement, paint etc., outside of woods;
- (8) Basements dug with backhoe and material removed from site;
- (9) Cement pumped in;
- (10) Specified stock pile areas;
- (11) Prioritize trees to be saved;
- (12) PUD zoning.

(Ord. 125, passed 5-11-99)

§ 94.21 INCENTIVES FOR TREE PRESERVATION.

The City of St. Michael declares it necessary and appropriate to provide incentives to assist the developer or builder in meeting or exceeding the tree preservation requirements. The available incentives include:

(A) A density bonus of 10% may be awarded in areas outside of forested areas, if the tree removal threshold is not invoked and tree preservation requirements exceeded. This density bonus applies only to forests of 20 acres or more and is to be commensurate with the tree preservation efforts and forest quality.

(B) Omit tree survey requirement on undisturbed forested areas if 50% of the tree canopy cover remains undisturbed (trees must be indicative of the most desirable forested areas) and if preserved in perpetuity (i.e. conservation easement, open space). Calculations on total significant tree loss shall take into account the percent of undisturbed woodlands.

(C) Right-of-way, width of paving, length of cul-de-sac and increased street grades may vary to allow tree preservation.

(D) Shared driveways may be permitted and building setbacks and lot configuration may vary to allow for tree preservation.

(Ord. 125, passed 5-11-99)

§ 94.22 IMPLEMENTATION.

(A) Performance guarantee. The developer/builder shall provide a performance guarantee following approval of the tree preservation plan prior to any construction and/or grading. The performance guarantee shall be included in the security required for landscaping and screening as described in § 155.031 of the Zoning Ordinance.

(B) Site grading and improvements. The proposed grading plan shall be approved by the city prior to the issuance of a grading permit, to ensure compliance with the tree preservation plan. All sites shall be staked, as depicted in the approved grading plan, before grading is to commence. The city shall inspect the construction site prior to and during grading to ensure that protective fencing and other protective measures are in place. No encroachment, grading, trenching, filling, compaction, or change in soil chemistry shall occur within the fenced areas protecting the root zone of the trees to be saved throughout construction.

(C) Post-construction procedure.

(1) After grading, construction, and restoration has been completed a forester or landscape architect, retained by the developer, shall:

(a) Submit in writing which significant trees and significant woodlands remain and which have been destroyed or damaged.

(b) Submit a plan for city review identifying where replacement trees, if required, will be integrated into the site.

(2) Following written request by the developer/builder, the performance guarantee will be released upon verification by the city that the tree preservation plan was followed.

(Ord. 125, passed 5-11-99)

CHAPTER 95: ASSEMBLIES

Section

95.01 Purpose

95.02 Definitions

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- 95.06 Application procedures; fees
- 95.07 Approval of road authorities
- 95.08 Revocation/suspension of permit
- 95.09 Violations

§ 95.01 PURPOSE.

This chapter is intended to insure that large gatherings or assemblies of people held for entertainment and other special events and activities, or other acceptable, irregular, interim communal uses and activities are conducted in accord with the city's zoning chapter and proper and acceptable sanitary, police, fire, and other health and safety considerations so as to protect the health, safety and general welfare of the public, adjoining property owners, and of the people attending or taking part in the assembly.

(Ord. 134, passed 7-11-00)

§ 95.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASSEMBLY. Any gathering of 250 or more people at any location at any single time for the purpose of musical, political, promotional, social, entertainment, or other similar types of activities.

ASSEMBLY AREA. The area within which the assembly activities are to take place.

CITY COUNCIL. The St. Michael City Council.

FAMILY. Persons related to each other by blood, marriage or adoption.

PERMIT. A permit allowing an assembly to be held in the city.

PERMITTED PREMISES. The entire area to be used to conduct an assembly including, but not limited to, the assembly area, vehicle parking areas, camping areas, and adjacent private and public roads.

PERSON. Any individual, partnership, corporation, association, society or group seeking and/or receiving an assembly permit from the city.

(Ord. 134, passed 7-11-00)

§ 95.03 PERMIT REQUIRED.

No person, except those specifically exempted in accordance with § 95.04 herein, shall maintain, conduct, allow, promote, advertise, organize, manage or sell or give away tickets to, an actual or reasonably anticipated assembly, whether upon public or private property, without an interim use permit duly approved by the City Council and recorded with the Wright County Auditor in accordance with this chapter and the applicable interim use section of the zoning chapter. Receipt of a valid permit pursuant to this chapter does not waive the obligation to obtain any other federal, state, or county permits or approvals that may be required.

(Ord. 134, passed 7-11-00) Penalty, see § 10.99

§ 95.04 EXEMPTIONS.

This chapter shall not apply to the following assemblies:

(A) Any assembly at any regularly established and permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or other similarly established place of assembly that has received zoning approval from the city;

(B) Assemblies permitted or licensed by other state laws or Wright County ordinances including those issued by the State Parks System and the Wright County Parks System;

(C) City or Wright County sponsored events held on public property; and

(D) Family gatherings taking place entirely upon the premises of a family member.

(Ord. 134, passed 7-11-00; Am. Ord. 0802, passed 3-11-08)

§ 95.05 REQUIREMENTS FOR PERMIT.

Before any permit under this chapter may be issued, the applicant for the permit shall supply information deemed sufficient by the city to establish that the proposed assembly will satisfy the following requirements:

(A) Maximum number of people. A permit shall only allow the assembly of people up to the maximum number of people stated in the permit. The City Council may impose restrictions on the maximum number of people which may be assembled as deemed necessary by the city to protect the health, safety and welfare of those people who shall be in attendance, the residents of the area in which the assembly will be held, and other residents of St. Michael. The permit holder shall not sell tickets to nor permit to assemble at the permitted premises, more than the maximum permissible number of people stated in the permit.

(B) Fenced grounds. A fence or barrier shall enclose assembly area. The fence shall be of sufficient height and strength to prevent people from gaining unauthorized access to the assembly area, and shall have sufficient entrances and exits to allow for safe and easy movement into and out of the assembly area. Vehicle parking areas shall be exempted from inclusion within the fencing requirement, but shall be considered to be a part of the permitted premises.

(C) Water. Potable water meeting all federal and state requirements for sanitary quality, must be provided in sufficient quantities to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day. If the assembly is to continue for more than 24 consecutive hours, water for bathing must be provided at the rate of at least ten gallons per person per day.

(D) Food. The preparation, sale and dispensing of any food on the permitted premises shall be by vendors licensed by the Minnesota Department of Health.

(E) Toilets. Enclosed toilets allowing for separate use by males and females, sufficient in number to accommodate the maximum number of people to be assembled, shall be provided and shall be conveniently located throughout the permitted premises. Such facilities shall be provided in accordance with state regulations and the recommendations of the Wright County Office of Planning and Zoning, Division of Environmental Health.

(F) Solid waste disposal. The permitted premises shall be maintained in a neat and orderly manner and the permit holder shall provide a sanitary method of disposing of solid waste which is sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day. The method of disposal shall also provide for collection and removal from the permitted premises of all solid waste at least once each day of the assembly. The handling and disposal of solid waste shall also be accomplished in compliance with all city, county and state regulations regarding solid waste. A sufficient number of recycling storage bins must be made available for glass, aluminum, plastic, and other recyclable waste.

(G) Noise. All necessary precautions shall be taken to ensure that the sound of the assembly shall not carry unreasonably beyond the permitted premises. All events must be in compliance with the State of Minnesota Pollution Control Standards, Minnesota Rules Chapter 7005, as amended.

(H) Parking. The permit holder shall, at a minimum, provide a parking area of sufficient size to provide parking space for the maximum number of people to be assembled, based upon a calculated rate of at least one parking space for every three people. All parking must be off of public roadways.

(I) Public telephones. Public telephones shall be provided so as to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 500 persons or any incremental portion in excess thereof. All phone locations shall be clearly marked and easily identifiable.

(J) Administrative control center. The permit holder shall provide an administrative control center which shall be equipped with a telephone by which local authorities may contact the permit holder, law enforcement personnel, or other people in attendance at the assembly.

(K) Lighting. For assemblies continuing during hours of darkness, the permit holder shall provide sufficient illumination to safely light the entire permitted premises, but such illumination shall not extend beyond the boundaries of the permitted premises.

(L) Medical facilities. The permit holder shall insure the availability of appropriate medical facilities. For assemblies in excess of 500 people, the permit holder shall provide at the assembly area an emergency ambulance staffed by at least two licensed emergency attendants. The necessity of additional medical facilities and personnel shall be determined by the emergency medical providers for the assembly.

(M) Security. The permit holder shall prepare and implement a security, traffic, weather emergency and alcohol and drug control plan which shall meet the requirements of the city and the Wright County Sheriff. The permit holder shall be required to provide for the presence of law enforcement personnel in such numbers as determined and deemed appropriate by the Wright County Sheriff.

(N) Fire protection. The permit holder shall submit a plan for fire protection, which must be approved by the St. Michael Fire Chief.

(O) Camping facilities. If the assembly is to continue overnight, camping facilities shall be provided which are sufficient to provide accommodations for the maximum number of persons reasonably anticipated to remain overnight. Camping facilities shall meet the guidelines established by the Minnesota Department of Health. All minors (under 18 years of age) shall be accompanied by an adult.

(P) Alcohol. Depending on the nature and size of an assembly, the city may require that no alcohol be served or consumed on the permitted premises at any time during the assembly, or the city may require the permit holder to obtain a temporary on-sale liquor license.

(Q) Insurance. Prior to the issuance of a permit, the person shall file with the city a certificate of insurance demonstrating that the person has obtained a policy of insurance naming the city as an additional insured thereon in the amount of not less than \$1,000,000 coverage for bodily injury, death or property damage arising out of the assembly. A larger coverage amount maybe required as deemed necessary by the city.

(R) Financial security. Prior to the issuance of a permit, the person shall file with the city a bond, either in cash or underwritten by a surety company licensed to do business in the State of Minnesota, or an irrevocable letter of credit, in an amount to be determined by the city. The financial security shall be used to indemnify and hold harmless the city and its agents, officials and employees from any liability, claims, or causes of action which might arise from the issuance of the permit. Said financial security shall also be used to reimburse the city for services provided to the permit holder by the city, for any cost incurred by the city in cleaning up, removing and disposing of any solid waste left by the assembly and for all costs incurred by the city to enforce the permit. No portion of the financial security shall be released to the permit holder until all requirements of the permit have been satisfied, as determined by the City Council.

(Ord. 134, passed 7-11-00) Penalty, see § 10.99

§ 95.06 APPLICATION PROCEDURES; FEES.

(A) Application. A completed application for a permit shall be made according to the interim use permit provisions of the city's zoning chapter.

(B) Verification. The application shall be signed and verified by the person requesting the permit and by the owner of the permitted premises. If the person is a corporation, the application shall be signed by the president or other authorized officer. If the person is an association, society, partnership or group, the application shall be signed by the appropriate officers or partners or, if there are no officers or partners, by all members.

(C) Fee. The city shall charge a non-refundable application fee and a fee for each permit issued under this chapter. The amount of the fees shall be in accordance with the fee schedule as adopted from time to time by the City Council. The non-refundable application fee shall be paid at the time of submitting a completed application. A cash escrow in an amount determined by the city may also be required to cover the city's

administrative, planning, engineering, and legal expenses associated with reviewing the application for the permit.

(D) Application information. The person seeking a permit shall supply all information requested on the application form, including the following:

(1) The name, date of birth, residence, and mailing address of the person applying and of each individual required by division (B) above to sign the application.

(2) The address and legal description of the proposed permitted premises, together with the name, residence, and mailing address of the record owner(s) of all such property.

(3) The nature or purpose of the proposed assembly.

(4) The dates and times during which the proposed assembly will be held.

(5) Detailed information as to how the person applying will insure that the assembly will comply with the requirements of § 95.05 of this chapter.

(6) A site plan as described in the city's zoning chapter.

(Ord. 134, passed 7-11-00)

§ 95.07 APPROVAL OF ROAD AUTHORITIES.

Within 30 days of submitting the completed application required by this chapter, the person shall secure the written approval of the appropriate road authorities for the traffic control plan and points of access onto established public road systems for purposes of the assembly.

(Ord. 134, passed 7-11-00)

§ 95.08 REVOCATION/SUSPENSION OF PERMIT.

Any permit issued under this chapter may be revoked by the city for violation of any of the provisions of this chapter or for failure to comply with any of the conditions contained within the permit. The Wright County Sheriff may suspend operation of and close any assembly prior to the expiration of the permit granted under the provisions of this chapter in the event of a riot, major disorder, violation of the permit, or serious breach of the peace, as determined by the Wright County Sheriff to be necessary to prevent injury to people and/or damage to property.

(Ord. 134, passed 7-11-00)

§ 95.09 VIOLATIONS.

Any person violating any of the provisions of this chapter or who makes any false statement on the application required by § 95.06 shall be guilty of a misdemeanor. In addition to other remedies allowed by law, the City Council may authorize the City Attorney to institute appropriate actions or proceedings to prevent, restrain, correct or abate violations of this chapter.

(Ord. 134, passed 7-11-00)

CHAPTER 96: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Section

- 96.01 Definitions
- 96.02 Exception of definitions
- 96.03 Licensing
- 96.04 Licensing exemptions
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- 96.06 License suspension and revocation
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§ 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOING BUSINESS BY APPOINTMENT. A bona fide appointment, and not merely obtained by going door-to-door in conjunction with the taking of orders, offering for sale or selling.

EXEMPT ORGANIZATIONS AND EXEMPT POLITICAL SOLICITORS. Tax-exempt, nonprofit, charitable, religious and educational organizations pursuant to Section 501(c) of the Internal Revenue Code or tax-exempt political organizations under Section 527 of the Internal Revenue Code and registered pursuant to M.S. § 10A.14. Exempt political solicitors include candidates for public office, members of a candidate's election committee, or persons working on behalf of a candidate or any political issue, including without limitation, initiative, referendum, recall, levy or special ballot question. "Charitable organizations," "Religious organizations" and "Educational organizations" shall be defined as set forth in Minn. Rules § 130.6200, Subps. 2, 3 and 4.

NON-COMMERCIAL DOOR TO DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For the purpose of this chapter, the term NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE shall include door-to-door canvassing and pamphleteering intended for noncommercial purposes.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place to place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting within the city. The term PEDDLER shall mean the same as the term hawker.

PERSON. Any natural individual, group, organization, corporation, partnership, limited liability company or any other legal entity or association. As applied to groups, organizations, corporations, partnerships, limited liability companies and associations, the term includes each member, officer, partner, associate, agent or employee.

PROFESSIONAL FUNDRAISER. Any person who, for compensation, performs any solicitations or other services for a religious, political, social or educational or charitable organization.

REGULAR BUSINESS DAY. Any day during which City Hall is normally open for the purpose of conducting public business. Holidays defined by state law are not counted as REGULAR BUSINESS DAYS.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place to place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products merchandise, other personal property or services of which the person may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's

activity is to obtain or attempt to obtain orders as stated above. The term SOLICITOR shall mean the same as the term canvasser.

TRANSIENT MERCHANT. Defined as set forth in M.S. § 329.099.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of this chapter, the terms PEDDLER, SOLICITOR, and TRANSIENT MERCHANT shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this chapter shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in noncommercial door-to-door advocacy shall not be required to register under § 96.08 of this chapter.

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(3) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(7) Any person participating in an organized multi-person bazaar or flea market.

(8) Any person conducting an auction as a properly licensed auctioneer.

(9) Any officer of the court conducting a court-ordered sale.

(10) Any candidate for public office, or those working for a candidate for public office, who goes door to door to campaign.

(B) Exceptions to these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable

statutory provision or requirement provided by this or any other city code requirement.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.03 LICENSING.

(A) County license required. No person shall conduct business as a peddler, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by M.S. Ch. 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) City license required. Except as otherwise provided for by this chapter, no person shall conduct business within this jurisdiction as a peddler or transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to § 96.08.

(C) Application. An application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. Any fraud, misrepresentation, or false statement on the application shall constitute a violation of this chapter. All applications shall be signed by the applicant.

(D) All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- (3) A physical description of the applicant (hair color, eye color, height, weight, and distinguishing marks or features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
- (7) Full address of applicant's regular place of business, if any exists.

(8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.

(9) The type of business for which the applicant is applying for a license.

(10) The dates during which the applicant intends to conduct business.

(11) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.

(12) A statement as to whether or not the applicant has been convicted within the previous five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

(13) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(14) Proof of any required county license.

(15) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.

(16) A general description of the items to be sold or services to be provided.

(17) Any and all additional information as may be deemed necessary by the City Council.

(18) The applicant's driver's license number or other form of identification acceptable to the city.

(19) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

(E) Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule ordinance as it may be amended from time to time by the City Council.

(F) Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk, or its designee, shall within ten business days determine if the application is complete. An application will be considered complete if all required information is provided. If the City Clerk, or its designee, determines that the application is incomplete, the City Clerk, or its designee, must inform the applicant of the required, necessary information that is missing. The City Clerk, or its designee, shall review a complete application and order any investigation, including

background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Clerk, or its designee, shall issue the license unless grounds exist for denying the license application under § 96.05 of this chapter, in which case the Clerk, or its designee, shall deny the request for a city peddler or transient merchant license. If the City Clerk, or its designee, denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a hearing. The decision of the City Council following the hearing may be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(G) Duration. A license granted under this chapter shall be valid for one calendar year from the date of issuance.

(H) Professional fundraisers not exempt. A professional fundraiser working on behalf of an otherwise exempt organization shall not be exempt from the licensing requirements of this chapter.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17) Penalty, see § 96.99

§ 96.04 LICENSE EXEMPTIONS.

(A) Farm and garden products. No license shall be required for any person to sell or attempt to sell, or to take or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(B) Non-commercial door-to-door advocates. No license shall be required for any person going from house-to-house, door-to door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(C) Exempt organizations. Individuals engaging in peddling or transient sales of goods, wares and merchandise on behalf of an exempt organization as defined in this chapter shall not be required to be licensed, but must have on them at all times while engaged in these activities some form of exempt organization identification as defined in this section chapter. The burden of proving the person's an individual's exemption from licensing shall be on its claimant the person claiming the exemption. The exemption

from licensing does not include individuals who are paid to engage in regulated activity.

(D) Holders of conditional use permits. Where outdoor transient merchant sales are permitted under a conditional use permit approved by the City Council, this chapter shall apply only to the extent that such provisions have been included in the conditional use permit. Nothing herein shall limit the authority of the City Council to impose other reasonable conditions where they are deemed by the city to be appropriate.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17) Penalty, see § 96.99

§ 96.05 INELIGIBILITY FOR LICENSE.

The following shall be grounds for denying a peddler or transient merchant license:

(A) The failure of an applicant to obtain, or failure to demonstrate proof of having obtained, any required county license.

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(C) The failure of an applicant to sign the license application.

(D) The failure of an applicant to pay the required fee at the time of application.

(E) A conviction within the previous five years of the date of the application for any violation of any federal or state statute or regulation, or of any city ordinance or code requirement, which adversely reflects upon the applicant's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violation shall include, but is not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(F) The revocation within the previous five years of any license issued to an applicant for the purpose of conducting business as a peddler or transient merchant.

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or

agency, within the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.06 LICENSE SUSPENSION AND REVOCATION.

(A) Generally. Any license issued under this chapter may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge obtained by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under § 96.05 of this chapter.

(4) Engaging in any prohibited activity as provided under § 96.09 of this chapter.

(5) Violation of any other provision of this chapter.

(B) Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) Notice. Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with verbal and written notice of alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application; if no residential address is listed, then to the business address provided on the license application.

(D) Hearing. Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the City Clerk or its designee within seven days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame it shall be scheduled

within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) Emergency. If, in the discretion of the City Clerk or City Administrator, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Clerk, or its designee, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in division (D) of this section.

(F) Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.07 LICENSE TRANSFERABILITY.

A license issued under this chapter shall be valid only for the licensee to whom the license was issued. A license shall not be transferred to any other person.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.08 REGISTRATION AND IDENTIFICATION OF SOLICITORS.

(A) All solicitors shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application but no fee shall be required. Upon completion of the registration form, the city shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

(B) Upon the receipt of a solicitor's registration, the City Clerk shall issue to each individual employee, agent, or representative registered for direct solicitation, a registration card as proof of registration. Every solicitor registered hereunder shall carry and display his or her registration card at all times while engaged in solicitation, upon a lanyard or in a manner such that the information is readily, continuously and clearly visible and unobstructed.

(C) Individuals and exempt organizations engaging in non-commercial door-to-door advocacy shall not be required to register or obtain a certificate of registration.

(Ord. 1706, passed 12-26-17)

§ 96.09 PROHIBITED ACTIVITIES.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct such activity or carry out their activity in any of the following manners:

(A) Refusing to leave. It shall be unlawful to refuse to leave premises owned or leased by another after having been notified by the owner or occupant to leave the premises.

(B) Misrepresentation. It shall be unlawful to make false or fraudulent statements concerning the quality of the goods or services which are being offered for sale.

(C) Hours of operation. It shall be unlawful to engage in activities regulated by this Chapter between the hours of 9:00 p.m. and 8:00 a.m.

(D) Use of audio devices or unreasonable noise. It shall be unlawful to call attention to activities regulated by this chapter by means of blowing a horn or whistle, by ringing any bell, by crying out, or by making any other noise in an unreasonable manner.

(E) Obstructing traffic. It shall be unlawful to obstruct the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(F) Safety hazard. It shall be unlawful to conduct activities regulated by this chapter in such a way as to create a threat to the health, safety and welfare of any individual or the general public.

(G) Proof of license. It shall be unlawful to fail to provide proof of license, registration or identification when requested, or to use those of another person.

(H) False statements. It shall be unlawful to make false or misleading statements about the product or services being sold, including untrue statements of endorsement. No peddler, solicitor, transient merchant, non-commercial door-to-door advocate or other person engaged in other similar activities shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(I) Harassment. It shall be unlawful to conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

(J) Sales from vehicles. It shall be unlawful for any transient merchant to sell any goods or items directly from a vehicle.

(K) Approach to residence. Only one peddler working for the same company or organization shall approach each residence and no peddler shall approach a residence more than once per license unless invited back by the resident.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17) Penalty, see § 96.99

§ 96.10 COMPLIANCE WITH ZONING.

Transient merchants shall comply with all requirements of the St. Michael Zoning Code. Compliance with the zoning code location, information and plan requirements shall be verified in writing by the Zoning Administrator.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17) Penalty, see § 96.99

§ 96.11 EXCLUSION BY PLACARD.

(A) Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting activity as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate or similar activity when the property is marked with a sign or placard:

- (1) At least four inches long;
- (2) At least four inches wide;
- (3) With print of at least 48 point in size; and

(4) Stating “No Peddlers, Solicitors or Transient Merchants,” “Peddlers, Solicitors and Transient Merchants Prohibited,” or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard complying with this chapter.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17) Penalty, see § 96.99

§ 96.12 SEVERABILITY.

If any provision of this chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

§ 96.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in § 10.99 of this code. Each day on which such violation continues shall constitute a separate offense.

(Ord. 1005, passed 9-28-10; Am. Ord. 1706, passed 12-26-17)

CHAPTER 97: SOLID WASTE COLLECTION AND DISPOSAL

Section

97.01 Purpose and intent

97.02 Definitions

97.03 License requirement

97.04 Limitation on number of licenses; collection required

97.05 License regulations, terms, and conditions

97.06 Revocation and denial

97.07 Vehicle standards

97.08 Disposal of waste

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97.99 Penalty

§ 97.01 PURPOSE AND INTENT.

An ordinance authorizing and providing standards and regulations for governing the collection, transportation, and disposal of all waste generated within the corporate limits of the city to promote the health, welfare, and safety of the public, and protect resources of water, air, and land pursuant to M.S. Chapter 115A, as amended.

(Ord. 1903, passed 6-25-19)

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLECTOR. A person licensed by the city to collect, transport, and dispose of garbage and refuse. The term shall include the COLLECTOR'S duly authorized and acting employees and agents.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, and from the handling, storage, and sale of produce, and discarded and useless material except recyclable materials.

GARBAGE AND REFUSE COLLECTION. The taking up and collecting of all garbage and refuse accumulated at all dwelling residences and places of business and other institutions in the city and the transportation of such garbage and refuse to a sanitary landfill or other place of legal disposal provided by the collector at the sole expense of the collector.

MIXED MUNICIPAL SOLID WASTE. Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities, which is generated and collected in aggregate, but does not include auto hulks, ash, construction debris, mining waste, sludge, tree and agricultural wastes, tires, lead acid batteries, used oil, and other material collected, processed, and disposed of as separate waste streams. Street sweepings are included in this definition of MIXED MUNICIPAL SOLID WASTE if they are properly screened and meet applicable MPCA standards for heavy metal content.

REFUSE. Discarded waste materials in a solid or semi-liquid state consisting of garbage, rubbish, or a combination thereof.

WASTE CONTAINER. A container of galvanized iron, plastic, or non-corrodible material with a close fitting cover, rodent and flyproof, non-absorbent and leakproof, of the type commonly sold as a garbage can, of suitable gauge and construction to ensure durability, with suitable handles on can and lid, and of a capacity not less than ten gallons; but does not include recycling containers.

(Ord. 1903, passed 6-25-19)

§ 97.03 LICENSE REQUIREMENT.

No person, except as provided herein, shall remove mixed municipal solid waste from any premises in the city, transport such waste upon the streets

and public highways within the city, dispose of such waste originating in the city, or contract to be engaged in any such removal, transportation, or disposal, without first having obtained a license therefor from the city.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.04 LIMITATION ON NUMBER OF LICENSES; COLLECTION REQUIRED.

In order to protect the environment, and the health, safety, and welfare of the residents, businesses, and institutions in the city:

(A) No more than three mixed municipal solid waste collection licenses and one recycling license issued to a party who has a contract with the city may be in force at one time, except that a collector with a 2019 mixed municipal solid waste collection license as of the date of this section may continue to receive a license provided that such collector submits an application for renewal annually and said collector's license is not revoked or its renewal application is not denied;

(B) If a currently issued license is not renewed or is revoked, a new license shall not be issued unless there are no more than two licenses in force at such time the new license is applied for; and

(C) Every owner, occupant, or tenant of any premises who does not otherwise dispose of mixed municipal solid waste generated from said premises in an environmentally sound, sanitary, and legal manner shall place all such mixed municipal solid waste in a waste container and contract with a licensed collector to collect and dispose of such mixed municipal solid waste from said premises.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.05 LICENSE REGULATIONS, TERMS, AND CONDITIONS.

(A) Application. Any person or party desiring a city license to conduct business as a collector shall, at least 14 regular business days before the applicant desires to begin conducting a mixed municipal solid waste collector business operation within the city, submit an application for a collector license. An application for a collector license shall be made on a form approved by the City Council and available from the office of the City Clerk. Any fraud, misrepresentation, or false statement on the application shall constitute a violation of this chapter and will be grounds for denial of the license application.

(B) Fee. Each application for a collector license under this chapter shall be accompanied by the fee established in the city licensing fee schedule ordinance as it may be amended from time to time by the City Council.

(C) Renewal and expiration. Each collector license issued by the city shall expire on December 31 of each year and may be renewable upon submission of a new application.

(D) Insurance. Applicants shall, in conjunction with the filing of an application, furnish the city with certificate of insurance by an insurance company authorized to do business in the state, establishing that the applicant carries and maintains the types and amounts of insurance described in divisions (1) through (4) below, and that the insurance policies comply with division (5) below.

(1) Commercial general liability insurance, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than \$2,000,000.

(2) Commercial automobile liability insurance with a limit of not less than \$1,000,000 each occurrence. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles.

(3) Umbrella/excess liability insurance, with a limit of not less than \$1,000,000 each occurrence.

(4) Workers compensation insurance (statutory limits) or evidence of exemption from state law.

(5) The city shall be endorsed as an additional insured on the general liability, auto liability, and umbrella/excess liability policies. The insurance coverage must be primary and non-contributory. A certificate must be on file with the city at all times while a licensee operates as a collector in the city.

(E) License transferability. Collector licenses may be transferable if the proposed transferee complies with the application and other requirements of this chapter.

(F) No vested right. No collector holding a collector license shall acquire a vested right of any kind in that license. The city may, if it determines it to be in the public interest, establish other means of refuse collection or decrease the number of collector licenses to be issued.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.06 REVOCATION AND DENIAL.

(A) A license issued pursuant to this chapter may be revoked by the City Council for any of the following.

(1) Conviction. The conviction of any crime of the licensee or its owners for the violation of the requirements of this chapter or the laws of the state regarding public health.

(2) Fraud. Commission of fraud or misrepresentation with regard to the application for a collector license, or with regard to the carrying on of the licensed activity.

(3) Conduct. Conducting such licensed activity in such manner as to constitute a breach of the peace, or a menace to the health, safety, and welfare of the public, or a disturbance of the peace or comfort of the residents of the city, upon recommendation of the city health authorities or other appropriate city official.

(4) Insurance. Expiration or cancellation of any required bond or insurance, or failure to notify the city within a reasonable time of changes in the licensee's terms of its insurance or its insurance carriers.

(5) Performance. Actions of the licensee that the city finds to be in violation of this chapter or other applicable city ordinances or beyond the scope of the license granted.

(6) Compliance. Three verified violations by a licensee of the conditions and requirements of this chapter, within a two-year period.

(B) Revocation. Revocation of a collector license shall be preceded by a public hearing conducted before the City Council. The City Council may appoint a hearing examiner or may conduct the hearing itself. The hearing notice shall be given to the licensee at least ten days prior to the hearing, shall include notice of the time and place of the hearing, and shall state the nature of the reasons for the revocation of the collector license. The licensee shall have an opportunity to appear at the hearing in person, by agent, or by attorney, and present evidence relative to the matter under consideration. Notice shall be provided to the licensee by mail.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.07 VEHICLE STANDARDS.

(A) Licensees and vehicles used to collect and transport mixed municipal solid waste over the streets and alleys of the city must at all times comply with the following.

(1) Waste covered. Vehicles shall have a fully enclosed metal body which is tightly sealed and properly maintained.

(2) Containment of odors. Vehicles shall be maintained and operated to prevent offensive odors escaping from the vehicle.

(3) Cleanup of spilled waste. Vehicles shall be maintained and operated to prevent solids or liquids from leaking, spilling, dropping, or blowing from the vehicle. If any material is released from a collector's vehicle or container, the collector shall pick up the material immediately and properly clean the area. If the material is hazardous in nature or a hazardous waste, the collector must immediately notify the city and comply with all other applicable statutes, rules, and regulations.

(4) Backup warning device. Vehicles shall be equipped with a backup device which complies with state statutes and state highway regulations thereto.

(5) Sanitation and appearance. Vehicles shall be kept clean and in good repair and appearance and shall be maintained in a sanitary condition so as to prevent spills, leaks, insect breeding, or other nuisance characteristics. If operation of a collector's vehicle causes a spill or leak of a hazardous material, such as hydraulic fluid, fuel, oil, or similar material, the collector shall clean up the material immediately, notify the city, and comply with all other applicable statutes, rules, and regulations.

(6) Identification. Vehicles shall display the licensee's name and telephone number in a conspicuous place on both sides of each licensed vehicle in letters and numerals no less than four inches in height.

(B) Inspection. No license shall be issued or renewed until the vehicle(s) to be used by the licensee has passed a state approved inspection and received a commercial vehicle (CV) inspection certificate from either the state or a CV dealer authorized by the state to conduct CV inspections. The inspection certificate for the proposed licensed vehicle must be dated within 12 months from the date of the application or renewal. Collectors shall routinely inspect vehicles to prevent spilling or leaking of waste and hazardous materials.

(C) Storage of vehicles in the city. Collectors shall not store or keep their waste removal vehicles in the city when not in use (after such vehicle is free from all waste) unless located within a properly zoned district and the site complies with all zoning and other applicable city code requirements.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.08 DISPOSAL OF WASTE.

All mixed municipal solid waste or refuse collected by any collector, shall be disposed of only at places specifically authorized by the Minnesota Pollution Control Agency for such disposal.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.09 COLLECTION PRACTICES.

(A) Collection. Hauling of all mixed municipal solid waste, except yard waste, shall be conducted on the collection day(s) that corresponds to the hauling districts specified in division (B) below, with the following exceptions:

(1) When a legal holiday falls on a normal collection day, in which case the collector shall provide service on the next day; and

(2) Extreme inclement weather prevents the collector from collecting the mixed municipal solid waste, except yard waste, on the scheduled day, in which case the collector shall provide the collection on the next day that weather permits such collection.

(B) Districts.

District

Agricultural and Residential District 1

Agricultural and Residential District 2

Commercial, Industrial, and Public/Institutional

(C) Hours of operation. No licensed collector may operate between the hours of 7:00 p.m. and 7:00 a.m.

(Ord. 1903, passed 6-25-19) Penalty, see § 97.99

§ 97.99 PENALTY.

Any person convicted of violating this chapter shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both as specified by state statute.

(Ord. 0505, passed 12-27-05)

CHAPTER 98: REGISTRATION OF VACANT BUILDINGS

Section

- 98.01 Purpose and findings
- 98.02 Definitions
- 98.03 Vacant building registration
- 98.04 Vacant building registration fee
- 98.05 City action
- 98.06 Certification of unpaid service charges
- 98.07 Penalty for failure to register
- 98.08 Appeal by owner

- 98.99 Penalty

§ 98.01 PURPOSE AND FINDINGS.

(A) The City Council is enacting this chapter to help protect the public health, safety and welfare by establishing a program for the identification and registration of vacant buildings within the city. This chapter also impose certain responsibilities on owners of vacant buildings and provides for administration, enforcement, and penalties associated with the same.

(B) The City Council finds that vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner or responsible party of the building fails to actively maintain and manage the building to ensure it does not become a liability to the neighborhood. Vacant buildings often attract transients, homeless people, trespassers and criminals, including drug abusers. Neglect of vacant buildings, as well as use of vacant buildings by transients and criminals, creates a risk of fire, explosion or flooding for the vacant building and adjacent properties. Vacant properties often are used as dumping grounds for junk and debris and often are overgrown with weeds and grass. Vacant buildings that are boarded to prevent entry by transients, and other long-term vacancies, discourage economic development and retard appreciation of property values. There is a substantial cost to the city for monitoring vacant buildings whether or not those buildings are boarded. This cost should not be borne by the general taxpayers of the community; but rather, these costs should be borne by those who choose to leave their buildings vacant.

(Ord. 1105, passed 7-26-11)

§ 98.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. Any roofed structure used or intended for supporting or sheltering any use or occupancy.

CITY. The City of St. Michael, Minnesota.

DANGEROUS BUILDING. A building that is potentially hazardous to persons or property, including, but not limited to:

- (1) A building that is in danger of partial or complete collapse;
- (2) A building with any exterior parts that are loose or in danger of falling; or
- (3) A building with any parts, such as floors, porches, railings, ramps, balconies, or roofs, that are accessible and that are either collapsed, or in danger of collapsing, or unable to support the weight of normally imposed loads.

OWNER OR PROPERTY OWNER. The owner of record according to Wright County property tax records; those identified as owner or owners on a vacant building registration form, a holder of an unrecorded contract for deed, a mortgagor or vendee in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, other person, firm, corporation or other entity or organization in control of the freehold of the premises or lesser estate therein. An owner also means any person, partnership, association, corporation, limited liability company or fiduciary having a legal or equitable title or any interest in the property or building. This includes any partner, officer or director of any partnership, corporation, limited liability company, association or other legally constituted business entity. All owners shall have joint and several obligations for compliance with the provisions of this section.

RESPONSIBLE PARTY. An owner, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located; and any party having a legal or equitable interest in the property. Responsible party may include but is not limited to a realtor, service provider, mortgagee, leasing agent, management company or similar person or entity.

SECURED BY OTHER THAN NORMAL MEANS. A building secured by means other than those used in the design of the building.

UNSECURED BUILDING. A building or portion of building that is open to entry by unauthorized persons without the use of tools.

UNOCCUPIED BUILDING. A building which is not being used for a legal occupancy.

VACANT BUILDING.

(1) A building or portion of building that is unoccupied and meets one or more of the following conditions:

(a) Unoccupied and in any phase of an active foreclosure proceeding under Minnesota Statutes;

(b) Unoccupied or unsecured for five consecutive days or more;

(c) Unoccupied and secured by other than normal means for 15 consecutive days or more;

(d) Unoccupied and a dangerous building;

(e) Unoccupied and posted for no occupancy or unfit for human habitation;

(f) Unoccupied and has city code violation(s) existing for five days or more; or

(g) Condemned and illegally occupied.

(2) VACANT BUILDING does not mean any building being constructed pursuant to a valid, unexpired building permit issued pursuant to city building code regulations.

(Ord. 1105, passed 7-26-11)

§ 98.03 VACANT BUILDING REGISTRATION.

(A) Registration.

(1) The owner of a vacant building shall register the building with the city no later than seven days after the building becomes a vacant building as defined in this chapter.

(2) The city may register an unoccupied building as a vacant building when the city takes ordinance enforcement action or action to abate an ordinance violation against the owner of an unoccupied building or the grounds upon which it is located. In such case, the city shall complete all forms required by this chapter and may special assess all registration costs against such property.

(B) Application. Registration shall be completed by the owner or responsible party on forms provided by the city. Such completed registration may be sent to the owner and all other parties holding an ownership or security interest in the property, if requested. Registration information shall include the following:

(1) The name, address, telephone number and email address, if applicable, of each owner and each owner's representative;

(2) The names, addresses, telephone numbers and email addresses, if applicable, of all known lien holders and other parties with any legal interest in the building;

(3) The name, address, telephone number and email address, if applicable, of a local agent or person responsible for managing or maintaining the property upon which the building is situated;

(4) The tax parcel identification number and street address of the property on which the building is situated;

(5) The date the building became vacant and the period of time the building is expected to remain vacant;

(6) The status of water, sewer, natural gas and electric utilities; and

(7) A property plan and timetable for returning the building to appropriate occupancy or use and correcting code violations and nuisances, or for demolition of the building.

(C) Registration changes. The owner, or responsible party, shall notify the city within seven days of changes in any of the information supplied as part of the vacant building registration.

(D) Property plan. The property plan, identified above in § 98.03(B)(7) shall meet the following requirements:

(1) General provisions. The plan shall comply with all applicable regulations and meet the approval of the Building Official. It shall contain a timetable regarding use or demolition of the building. The plan shall be completed within ten working days after the building is registered.

(2) Maintenance of building/grounds. The plan shall identify the means and timetable for addressing all maintenance and nuisance-related items identified in the application. Any repairs, improvements or alterations to the building shall comply with building code provisions and applicable city regulations. The owner, or responsible party, shall keep the vacant building secured and safe, and the building grounds maintained.

(3) Plan changes. If the property plan or timetable for the vacant building is revised in any way for any purpose, the revisions shall meet the approval of the Building Official.

(4) Disconnect of utilities. The owner, or responsible party, of a vacant building shall disconnect utilities to the vacant building when required by the Building Official.

(E) Access. The owner, or responsible party, of a vacant building must allow the city access for inspections. The city will provide the owner, or responsible party, with a five day notice for any inspection request except where a hazardous or unsafe condition exists, in which case the city may access the vacant building for inspection purposes after making a reasonable effort to contact the owner, or responsible party, via telephone.

(Ord. 1105, passed 7-26-11)

§ 98.04 VACANT BUILDING REGISTRATION FEE.

(A) The owner of a vacant building shall pay an annual registration fee of \$100. The fee may be modified by City Council resolution from time to time. Subsequent annual fees shall be paid on the anniversary of the initial registration. This fee is imposed to defray the cost of registering and monitoring the vacant building.

(B) The first annual fee shall be paid no later than ten days after the building has become a vacant building as defined by this chapter.

(Ord. 1105, passed 7-26-11)

§ 98.05 CITY ACTION.

The city may take the following actions in relation to a vacant building. The building owner shall reimburse the city for all costs incurred by the city pursuant to this chapter.

(A) The city may shut off water service to the vacant building, unless the owner can show good cause why water service should remain on.

(B) The city may inspect the vacant building and the property upon which it is situated each month.

(C) The city may take any other action required to secure the building.

(D) The city may mow the lawn, landscape or grounds of any property upon which a vacant building is situated as needed if the plant growth

violates city ordinances and the owner fails to timely maintain the plant growth on the property in accordance with city ordinances.

(E) The city may plow sidewalks and driveways located on any property upon which the vacant building is situated, remove garbage from the property, and take any other actions authorized by law to remedy an ordinance violation.

(F) The city may conduct site inspections of the property upon which the vacant building is located as needed to insure that the building is secure, the grounds are maintained and compliance with the terms of this chapter is achieved.

(Ord. 1105, passed 7-26-11)

§ 98.06 CERTIFICATION OF UNPAID SERVICE CHARGES.

In the event the owner of a vacant building fails to reimburse the city within 30 days of mailing of a bill by the city for costs incurred by the city pursuant to enforcement of this chapter against the owner of property upon which a vacant building is situated, or in the event the vacant building owner fails to pay the registration fee required by this chapter, the city may certify such unpaid charges to the County Auditor for collection with the next year's property taxes after ten days mailed notice to the property owner sent via first class U.S. Mail to the owner's address as listed on the tax records at the Wright County Recorder's Office.

(Ord. 1105, passed 7-26-11)

§ 98.07 PENALTY FOR FAILURE TO REGISTER.

Any owner who fails to register a vacant building under this section or who provides inaccurate or false information shall face an administrative fine of \$100 for each month that the vacant building remains unregistered.

(Ord. 1105, passed 7-26-11)

§ 98.08 APPEAL BY OWNER.

Any owner of a vacant building who believes that an order or penalty issued under this chapter is based on an erroneous interpretation of this chapter or a misstatement of facts may appeal to the City Council. Such appeal must be in writing and must specify the grounds for the appeal. Any appeal must be filed within ten days of the action taken with which the owner disagrees.

(Ord. 1105, passed 7-26-11)

§ 98.99 PENALTY.

A violation of this chapter shall subject the violator to the penalty provisions set forth in § 10.99(A) of this Code.

(Ord. 1105, passed 7-26-11)

CHAPTER 99: PREDATORY OFFENDER RESIDENCY RESTRICTION

Section

99.01 Purpose and intent

99.02 Definitions

99.03 Residency prohibition, measurement of distance and official map

99.04 Exceptions

99.05 Prohibition against renting real property to certain designated offenders and administrative penalties

99.06 Severability

99.99 Penalty

§ 99.01 PURPOSE AND INTENT.

(A) Repeat predatory offenders present a threat to the public safety of the community as a whole, especially children. Predatory offenders assigned a risk level III under the risk assessment scale established by the Minnesota Commissioner of Corrections are more likely than other classifications of offenders to use physical violence, to repeat their offenses, to have committed multiple offenses, to have more victims than are ever reported, and, as a result, to be prosecuted for only a fraction of their crimes. Predatory offenders assigned a risk level III under the risk assessment scale established by the Minnesota Commissioner of Corrections who reside in close proximity to places and areas frequented by children are more likely to develop a relationship or familiarity with a child that would increase such predatory offender's likelihood to re-offend. The cost of predatory offender victimization to society at large, while not precisely calculable, is steep.

(B) As expressed in M.S. § 412.221, Subd. 32, the city has power to provide for the prevention of crime, the benefit of residence, and the

promotion of health, safety, order, convenience, and the general welfare, as it deems necessary and expedient.'

(C) The city has a compelling interest in promoting, protecting, and improving the health, safety, and general welfare of its citizens, and specifically has a compelling interest to protect against the serious threat to children posed by predatory offenders, including the risk of recidivism and harm that released sex offenders, assessed at a risk level III due to their high risk of re-offense, will pose to this community.

(D) By this section, the city prohibits certain predatory offenders of risk level III from establishing temporary or permanent residence in certain locations where children are known to regularly congregate in concentrated numbers.

(Ord. 1608, passed 12-13-16)

§ 99.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

CHILD. Any person under the age of 18.

CHILD CARE FACILITY. A facility licensed by the Minnesota Department of Human Services, or Wright County to provide child care, including facilities having programs for children known as nursery schools, day nurseries, child care centers, day care centers, cooperative day care centers, and Head Start programs.

DESIGNATED OFFENDER. Any person who has been categorized as a level III predatory offender under M.S. § 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

PERMANENT RESIDENCE. A place where a person abides, lodges, or resides for 14 or more consecutive days.

PUBLIC PARK. A public recreation center or area, created, established, designated, maintained, provided, or set aside by the city, county, or state, for the purposes of public rest, recreation, and enjoyment, and all buildings, facilities, and structures located thereon.

PRIVATE PLAYGROUND. A private improved outdoor play area that may contain permanent play equipment, typically owned and maintained by a homeowner association, that is designed, equipped, and set aside for children's play, whether or not it is located adjacent to or within a

recreational area that also includes recreational amenities used by adults such as a swimming pool or tennis court(s).

PUBLIC PLAYGROUND. A city, county, or state-owned public improved outdoor area designed, equipped, and set aside for children's play, including a school building playground, a child care building playground, a play area of a public park, or an area that contains permanent play equipment open to the public.

TEMPORARY RESIDENCE. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

SCHOOL. Any public or nonpublic early childhood, pre-school, elementary, middle, or secondary school.

(Ord. 1608, passed 12-13-16)

§ 99.03 RESIDENCE PROHIBITION, MEASUREMENT OF DISTANCE AND OFFICIAL MAP.

(A) Prohibited location of residence.

(1) It is unlawful for any designated offender to establish a permanent or temporary residence within 2,000 feet of any school, licensed child care facility, private playground, public park, or public playground.

(2) It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of another permanent residence or temporary residence housing a designated predatory offender.

(B) Measurement of distance. For purposes of determining the minimum distance separation required by § 99.03(A), the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence of the designated offender to the nearest outer property line of the school, child care facility, private playground, public park, or public playground.

(C) Official map. The City Clerk shall maintain an official map showing prohibited locations as defined by this chapter. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all encompassing, or relieve any person subject to this ordinance from their duty to comply with the prohibitions herein, since prohibited zones change from time to time.

(Ord. 1608, passed 12-13-16)

§ 99.04 EXCEPTIONS.

A designated offender residing within the prohibited area as described in § 99.03 (A) does not commit a violation of that Section if any of the following apply:

(A) The designated offender established a permanent residence or temporary residence and reported and registered the residence pursuant to M.S § 243.166 and 243.167 or a successor statute, prior to the effective date of this ordinance December 13, 2016.

(B) The designated offender was a minor when he or she committed the offense and he or she was not convicted as an adult.

(C) The designated offender is a minor.

(D) The school, licensed child care facility, private playground, public park, public playground within 2,000 feet of the designated offender's permanent residence or temporary residence was opened after the designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §§ 243.166 and 243.167 or a successor statute.

(E) The designated offender's permanent residence or temporary residence is also the primary residence of the designated offender's parent(s), grandparent(s), sibling(s), spouse, or child(ren).

(Ord. 1608, passed 12-13-16)

§ 99.05 PROHIBITION AGAINST RENTING REAL PROPERTY TO CERTAIN DESIGNATED OFFENDERS AND ADMINISTRATIVE PENALTIES.

(A) It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this chapter, if such place, structure, or part thereof, is located within a prohibited location zone described in § 99.03(A).

(B) A violation of this section shall subject the violator to the code enforcement provisions and procedures as provided for in Chapter 38 of the City Code, but shall not be exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of St. Michael to seek cumulative remedies.

§ 99.06 SEVERABILITY.

Should any section, subdivision, clause or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the chapter as a whole, or of any part thereof, other than the part held to be invalid.

(Ord. 1608, passed 12-13-16)

§ 99.99 PENALTY.

Any person convicted of violating any provision of this chapter shall be punished by a fine not exceeding \$1,000 or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a designated offender maintains a permanent or temporary residence in violation of this chapter shall constitute a separate offense.

(Ord. 1608, passed 12-13-16)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. AMUSEMENTS

112. CABLE TELEVISION

113. GAMBLING AND BINGO

114. FIREWORKS SALES

115. PAWN SHOPS

116. MOBILE FOOD UNITS

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

3.2 Malt Liquor

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3.2 MALT LIQUOR

§ 110.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BEER or 3.2 MALT LIQUOR. Any potable malt beverage with an alcoholic content of more than 0.5% of alcohol by volume, and not more than 3.2% of alcohol by weight.

(Ord. 2, passed 3-24-50)

§ 110.02 LICENSES.

(A) License required. No person shall sell, deal in, or keep for sale any 3.2 malt liquor without first securing a license therefor. Licensing shall be for "on sale" or "off sale."

(B) Applications. Application for a license shall be made to the City Administrator, accompanied by the required annual fee for the license, the fee to be refunded if the license is not granted.

(C) Fees. Fees for licenses shall be as determined by the City Council from time to time.

(D) Term. All licenses shall expire on June 30 each year.

(Ord. 2, passed 3-24-50) Penalty, see § 10.99

§ 110.03 CONDITIONS OF LICENSE.

(A) No license shall be granted for sale to any licensee who has been convicted of a felony or of violating any law of the state relating to the manufacture, sale, or transporting of intoxicating liquors.

(B) Licenses may be revoked by the Council without showing cause, and without notice to the licensee. Revocation shall not entitle the licensee to repayment of the license fee.

(Ord. 2, passed 3-24-50)

INTOXICATING LIQUOR

§ 110.15 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INTOXICATING LIQUOR or LIQUOR. Includes ethyl alcohol and any distilled, fermented, spirituous, vinous, or malt liquor of any kind, potable as a beverage, containing 3.2% or more of alcohol by volume, and shall also include and mean liquor of any kind potable as a beverage which is in fact intoxicating.

(Ord. 2, passed 3-24-50)

§ 110.16 LICENSES.

(A) License required. It shall be unlawful for any person to sell, manufacture, give away, dispose of, furnish, possess, transport, or have in possession for sale intoxicating liquor unless a license therefor has been secured as provided by state law, and in accord with this subchapter.

(B) Fees. Applications shall be accompanied by the required fee for the license to the City Administrator, with the fee to be refunded if the license is not granted. Fees shall be determined by the City Council from time to time.

(C) Term. All licenses shall expire on June 30 each year.

(D) Granting license. The Council shall cause an investigation to be made of all facts set forth in the application, and after the investigation may grant or refuse the license in its discretion.

(Ord. 2, passed 3-24-50) Penalty, see § 10.99

§ 110.17 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this code as if set out in full. Except as established by state law, the city shall by ordinance establish all fees for licenses.

§ 110.18 ON-SALE SUNDAY SALES.

(A) A restaurant, club, bowling center or hotel with a seating capacity of at least 30 persons and which holds a license to sell on-sale intoxicating liquor on Sundays may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays, provided the licensee is in conformance with the Minnesota Clean Air Act.

(B) An off-sale licensee may sell intoxicating liquor on Sundays between the hours of 11:00 a.m. and 6:00 p.m. However, no delivery of alcohol to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on a Sunday. Also, no order solicitation or merchandising may be made by a wholesaler on a Sunday.

(Ord. 0308, passed 7-22-03; Am. Ord. 1702, passed 7-1-17)

§ 110.19 RESTRICTED HOURS ON PURCHASE AND CONSUMPTION.

(A) Hours of operation. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

(B) Restricted hours of operation.

(1) No person shall consume nor shall any on-sale licensee allow any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.

(2) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(3) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur, unless the on-sale licensed premises includes a secondary function of hospitality or recreational business.

(C) Violations. Anyone, including the licensee, patrons of the licensee, or employees of the licensee who violates this section is guilty of a misdemeanor. Any licensee in whose establishment a violation of this section occurs is guilty of a misdemeanor. Any employee who allows a patron to remain on the licensed premises in violation of this section is guilty of a misdemeanor.

(Ord. 0604, passed 6-13-06; Am. Ord. 0903, passed 10-27-09)

§ 110.20 CONSUMPTION AND POSSESSION ON PUBLIC PROPERTY

(A) Consumption.

(1) No person shall consume intoxicating liquor or 3.2% malt liquor on any public sidewalk or street in any non-residential or non-agricultural zoning district, or in a vehicle upon a public street.

(2) No person shall consume intoxicating liquor or 3.2% malt liquor in any public parking lot without City Council approval.

(B) Possession. No person shall have in his or her possession intoxicating liquor or 3.2% malt liquor in an open container on any public sidewalk or public street in any non-residential or non-agricultural zoning district.

(Ord. 0903, passed 10-27-09) Penalty, see § 10.99

§ 110.21 REVOCATION; SUSPENSION; FINE.

(A) (1) Upon a finding that the licensee of any license granted pursuant to this chapter has failed to comply with any of the provisions of this chapter or with any applicable state law, or other regulation or ordinance relating to an alcoholic beverage, the city may either suspend the license for a period not to exceed 60 days, revoke the license, or impose a civil fine on the licensee not to exceed \$2,000 for each violation, or some combination thereof.

(2) The civil penalty and/or suspension and revocation imposed pursuant to this section shall be based on the licensee's total number of violations at the specific location at which the violation occurred within the preceding 24-month period for participants in the Best Practices Program and 36-month period for non-participants in the Best Practices Program as follows:

First Violation

Second Violation

Third Violation

Fourth Violation

Penalty Calculation Period

(3) Notwithstanding the foregoing, the city may impose a fine, suspension or revocation that varies from the above schedule for any violation it determines, through the hearing specified below, was of a seriousness that justifies a departure from the schedule.

(4) No fine shall take effect until the licensee has been afforded an opportunity of a hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. No suspension or revocation of a license shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. § 340A.415.

(B) Suspensions will commence on the same day of the week as the occurrence of the violation. Unless specified, numbers indicate consecutive days' suspension during regular business hours.

(C) Nothing in this section shall prohibit the city, county or other authorized entity from seeking prosecution as a petty misdemeanor, misdemeanor, or gross misdemeanor for any violation of this section.

(Ord. 0604, passed 6-13-06; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0903, passed 10-27-09)

LICENSING AND REGULATING THE SALE OF WINE

§ 110.30 STATE LAW ADOPTED.

The provisions of M.S. Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bond of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing the sale of wine not exceeding 14% by volume for consumption on the licensed premises only, in conjunction with the sale of food, are adopted and made a part of this subchapter as if set out in full.

(Ord. 122, passed 3-23-99)

§ 110.31 WINE LICENSES.

(A) No person, except a wholesaler or manufacturer to the extent authorized under a state license, shall directly or indirectly deal in, sell, or keep for sale in the city any wine without an on-sale wine license. An on-sale wine license authorizes the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. For purposes of this subchapter, a restaurant means an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment thereof, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

(B) Any person with an on-sale wine license and on sale 3.2 beer license, as detailed in §§ 110.01 through 110.03 of this chapter, shall be eligible for a strong beer/wine license, and may serve intoxicating malt liquor on the premises.

(Ord. 122, passed 3-23-99; Am. Ord. 1702, passed 7-1-17)

§ 110.32 APPLICATION FOR LICENSE.

(A) Form. Every application for an on sale wine license shall state the applicant's name, age, citizenship or resident alien status, and representations as to the applicant's character, with such reference as the City Council may require. The application shall also state the restaurant in connection with which the proposed license will operate, its location, whether the applicant is owner and operator of the restaurant, how long the applicant has been in the restaurant business at that location, and such other information as the City Council may require from time to time. The application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

(B) Bond. Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided by M.S. § 340A.412, Subd. 1. The surety bond or other security shall be in the sum of \$3,000 for an application for an on sale wine license.

(C) Proof of financial responsibility. Prior to the issuance of a wine license, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409 with reference to liability under M.S. § 340A.801. Such proof shall be filed with the Commissioner of Public Safety except that if a license involves sales of wine by a prospective vendor who is not required by law to file such proof with the Commissioner of Public Safety, such proof shall be filed with the City Clerk. Any liability insurance filed as proof of financial responsibility under this subdivision shall conform to M.S. § 340A.409.

(Ord. 122, passed 3-23-99)

§ 110.33 LICENSE FEES.

(A) Amount. The annual fee for a wine license is \$150. The annual fee for the strong beer/wine license shall be determined by the City Council from time to time.

(B) Payment. Each application for a wine license shall be accompanied by a receipt by the City Treasurer for payment in full of the license fee. If an application for a license is rejected, the City Treasurer shall refund the amount paid.

(C) Term; pro-rata fee. Each license shall be issued for a period of one year, except if the application is made during the license year, a license may be issued for the remainder of the year for a pro-rata fee, with any

unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June.

(D) Refunds. No refund of any fee shall be made except as authorized by statute.

(Ord. 122, passed 3-23-99; Am. Ord. 1702, passed 7-1-17)

§ 110.34 GRANTING OF LICENSES.

(A) Investigation and issuance. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council may grant or refuse the application. No wine license shall become effective until the license and the security furnished by the applicant have been approved by the State Commissioner of Public Safety.

(B) Person and premises license; transfer. Each license shall be issued for the applicant only and shall not be transferrable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without approval of the City Council. Any transfer of the stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior City Council approval is grounds for revocation of the license.

(Ord. 122, passed 3-23-99)

§ 110.35 PERSONS INELIGIBLE FOR LICENSE.

No wine license shall be granted to any person made ineligible for such license by state law.

(Ord. 122, passed 3-23-99; Am. Ord. 0604, passed 6-13-06)

§ 110.36 PLACES INELIGIBLE FOR LICENSE.

(A) General prohibition. No wine license shall be issued for any restaurant ineligible for such license under state law.

(B) Delinquent taxes and charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(Ord. 122, passed 3-23-99)

§ 110.37 CONDITIONS OF LICENSE.

Every license is subject to the conditions of the following subdivisions and all other provisions of this subchapter and any other applicable ordinance, state law or regulation.

(A) Licensee's responsibility. Every licensee, except as otherwise provided by M.S. § 340A.501, is responsible for the conduct in the licensed establishment. Any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

(B) Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(C) Display during prohibited hours. No licensee shall display wine to the public during the hours when the sale of wine is prohibited.

(D) Federal stamps. No licensee shall possess a federal wholesale liquor dealers tax stamp or a federal gambling stamp.

(Ord. 122, passed 3-23-99; Am. Ord. 0604, passed 6-13-06) Penalty, see § 10.99

§ 110.38 SUSPENSION AND REVOCATION.

(A) The City Council shall either suspend for up to 50 days or revoke any on sale wine license or impose a civil fine not to exceed \$2000 for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. § 14.57 to 14.69 of the Administrative Procedures Act.

(B) Lapse of required dram shop insurance or bond, or withdrawal of the required deposit of cash or securities, shall affect an immediate suspension of any license issued pursuant to this subchapter without further action of the City Council. Notice of cancellation, lapse of a current liability policy or bond, or withdrawal of deposit of cash or security shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or a suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the City Clerk, a hearing shall be granted within ten days or such

longer period as may be requested. Any suspension under this division shall continue until the City Council determines that the financial responsibility requirement of this subchapter has again been met.

(Ord. 122, passed 3-23-99)

CHAPTER 111: AMUSEMENTS

Section

111.01 Carnivals, circuses, and the like

§ 111.01 CARNIVALS, CIRCUSES, AND THE LIKE.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT RIDE. Any mechanized device or combination of devices which carries passengers along the ground or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.

CARNIVAL or CIRCUS. A travelling commercial entertainment with sideshows, rides, and games.

(B) Permits.

(1) Permit required. It is unlawful for any person to present or operate within the city any carnival, circus, or similar enterprise without first having obtained a permit therefor from the city and paying a fee therefor as set from time to time by the city.

(2) Issuance. No permit shall be issued until the proper application has been completed, the fee or fees paid, and, where applicable, insurance provided. A copy of all insurance policies or certificates must be deposited with the city and must contain a provision that the city will be notified in writing at least ten days in advance of any cancellation or change in coverage.

(3) Deposit. A clean-up and damage deposit as set from time to time by the City Council is required. The deposit is refundable after inspection by the City Administrator.

(C) Insurance.

(1) Generally. Before the permit is issued, proof of insurance insuring the operator against liability for injury, death and property damage suffered by a person attending the carnival shall be provided to the city. Before the

permit shall be issued, the operator shall agree to hold the city harmless and shall agree to defend and indemnify the city, and the city's employees and agents, for any claims, damages, losses, and expenses related to the operation of the carnival, circus or amusement ride. The city shall be named as an additional insured under that insurance. The operator's contract of insurance shall be the primary insurance for the city and the operator or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city. The insurance shall provide coverage up to \$300,000 for any single claim and \$1,000,000 for any number of claims in a single occurrence.

(2) Products liability insurance. The applicant shall provide products liability insurance in the amount of \$300,000 if any food or drink is served upon the premises.

(D) Penalties. Any person who operates an amusement device, ride, concession booth, or related electrical equipment at any enterprise covered hereby without first having obtained a permit from the city or who violates any provision hereof is guilty of a misdemeanor.

(Ord. 43, passed 7-14-81) Penalty, see § 10.99

CHAPTER 112: CABLE TELEVISION

Section

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GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The city of St. Michael, Minnesota.

FCC. The Federal Communications Commission.

GRANTEE. The holder of a cable television franchise issued by the City of St. Michael.

GROSS BASIC SUBSCRIBER REVENUE. All income derived from the provision of basic cable services to any subscriber within the city limits.

MAY. Allows discretion.

SHALL. Always mandatory.

SUBSCRIBER. Any person who has a contract with the grantee for cable services.

(Ord. 51, passed 4-12-83)

FRANCHISES

§ 112.10 GRANTING OF FRANCHISE; EXCLUSIVITY.

The City Council may, upon majority vote, grant a franchise to any competent applicant. Any such franchise granted by the city shall be non-exclusive.

(Ord. 51, passed 4-12-83)

§ 112.11 TERM AND RENEWAL.

All franchises shall have an initial term of 15 years and any renewal shall be for a period of not more than five years. Renegotiation of any or all terms of the franchise may occur at such times as may be mutually agreed upon by the city and the grantee. Such renegotiation shall occur at least at the end of the initial franchise term, unless the city determines not to reissue the franchise to the grantee or desires to consider additional applicants for a franchise.

(Ord. 51, passed 4-12-83)

§ 112.12 SALE OR TRANSFER.

Sale or transfer of the franchise or sale or transfer of stock so as to create a new controlling interest shall be prohibited unless approved by the city, which approval shall not be unreasonably withheld.

(Ord. 51, passed 4-12-83)

§ 112.13 ACQUISITION OF SYSTEM BY CITY.

Upon expiration of the franchise term or termination of the franchise as provided in this chapter or upon receipt of an application from the grantee for approval of an assignment or transfer of the franchise, the city shall have the right to purchase the system of the grantee. In the event the city seeks to exercise its right to purchase, the purchase price shall be the price which any proposed assignee or transferee agreed to pay or the fair market value of the system as a going concern, whichever is less, payable on such terms as the grantee and city may agree. If the purchase price or the fair market value of the system cannot be agreed upon, the city and the grantee agree to submit the determination of the purchase price or fair market value to binding arbitration. The city and the grantee shall each choose one arbitrator, and the two arbitrators shall choose a third. If the choice of the third arbitrator cannot be agreed upon or a price determination is not made by arbitration, the purchase price or fair market value of the system shall be decided by the District Court of the State of Minnesota.

(Ord. 51, passed 4-12-83)

§ 112.14 EMINENT DOMAIN.

Nothing in this chapter shall be construed to preclude or limit the authority, if any, of the city to acquire any property of the grantee by eminent domain proceedings.

(Ord. 51, passed 4-12-83)

§ 112.15 COMPLIANCE WITH LAWS AND REGULATIONS.

The grantee shall conform to all federal laws and regulations regarding cable communications not later than one year after they become effective or sooner if so required by the applicable law or regulation and shall conform to all state laws, city codes, ordinances, and regulations with the exception of the rules of the Minnesota Cable Communications Board created by the provisions of M.S. § 238.04 as it may be amended from time to time, from which the city has exempted itself by prior actions.

(Ord. 51, passed 4-12-83)

§ 112.16 FEE.

To reimburse the city for its expense in administering the franchise, the grantee shall pay an annual fee to the city equal to 3% of the grantee's gross basic subscriber revenues and advertising revenues from the supplying of services to subscribers within the corporate limits of the city. The fee shall be calculated on a calendar year basis and shall be paid on or before March 1 following the year for which it is payable. The fee provided for in this section may be adjusted by the city from time to time, provided the schedule of maximum rates for basic cable service is adjusted to reflect the change.

(Ord. 51, passed 4-12-83)

§ 112.17 FINANCIAL REPORTS AND AUDITS.

The grantee shall file financial reports concerning the gross annual basic subscriber revenues realized by its operations within the authorized area annually with the city as soon as available after the close of its fiscal year. The financial reports shall include a balance sheet, a statement of operations, and any other information the city deems appropriate. The city may audit the grantee's accounting and financial records at any time upon reasonable notice.

(Ord. 51, passed 4-12-83)

§ 112.18 TERMINATION OF FRANCHISE.

(A) Subject to the procedural requirements set forth below, the city may terminate and cancel this franchise and all rights and privileges of the grantee hereunder in the event the grantee does any of the following:

(1) Substantially violates any provision of or defaults in the performance of any of its obligations under this franchise or any valid rule, order, or determination of the city;

(2) Attempts to evade any of the provisions of this franchise or practices any fraud or deceit upon the city;

(3) Files a petition or is adjudged bankrupt or insolvent under the Bankruptcy Act or any other insolvency or creditors' rights law, state or federal.

(B) The city shall provide the grantee a written notice of the cause for termination and its intention to terminate the franchise. Such written notice shall allow the grantee a reasonable period of time, not less than 30 days after receipt of the notice by any corporate officer or resident manager of the grantee by certified mail or personal service, in which to eliminate or remedy the stated cause for termination. If the grantee begins and pursues with due diligence its efforts to eliminate or remedy the stated cause for termination but such cause cannot be eliminated or remedied within the period of time specified by the city, then such period of time shall be extended as necessary to enable the grantee to begin and complete its corrective action through the exercise of due diligence.

(C) If the grantee fails to eliminate or remedy the stated cause for termination within the reasonable time specified or extended and the city determines to proceed with its intention to terminate the franchise, the grantee shall be provided with an opportunity to be heard at a public hearing prior to the termination of the franchise.

(D) In the event the city determines to terminate the franchise it shall set forth its findings, conclusions, and determination to terminate the franchise in a written resolution.

(Ord. 51, passed 4-12-83)

§ 112.19 REVIEW AND RENEGOTIATION.

The field of cable communications is a relatively new and changing industry which will no doubt see many regulatory, technical, financial, and legal changes during the term of the franchise agreement. Therefore, in order to provide for a maximum degree of flexibility in this franchise, and to help achieve a continued advanced and modern system, the following renegotiation provision shall apply:

(A) The city may require, at its sole discretion, system performance evaluation sessions at any time during the term of this franchise or as required by federal law.

(B) All evaluation sessions shall be open to the public and notice of sessions shall be published in the same way as a legal notice. Grantee shall notify its subscribers of all evaluation sessions by announcement on at least two channels of the system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days preceding each session.

(C) Topics to be discussed at any evaluation session may include rate structure, franchise fee, free or discounted services, application of new technologies, system performance, programming content, services, access,

customer complaints, judicial and FCC rulings, and amendments to the franchise or any other relevant topic.

(D) The grantee shall fully cooperate with the city and shall provide without cost such information and documents as the city may request to reasonably perform the evaluation.

(E) (1) If the city determines that reasonable evidence exists of inadequate system performance, it may require grantee to perform tests directed toward diagnosis and remedy of such suspected inadequacies at the grantee's expense. Grantee shall fully cooperate with the city in performing such testing and shall compile the results and prepare a written report, if requested by the city, within 30 days after notice.

(2) The city may require that such tests be supervised by a consultant designated by the city at the grantee's expense. The consultant shall sign all records of special tests and shall forward to the city such records with a report interpreting the results of the tests and recommending actions to be taken. If the testing reveals the difficulties to be caused by factors which are beyond the grantee's control, the cost of testing shall be borne by the city.

(Ord. 51, passed 4-12-83)

§ 112.20 SYSTEM MODIFICATION.

(A) As a result of a periodic review or evaluation session the city may request that the grantee modify the system or provide additional services. The grantee will comply with such requests by the city unless technology does not permit it or the grantee establishes to the satisfaction of the city that the cost would prohibit the implementation of the modification or additional services.

(B) The city may, at its own discretion, allow a special rate increase to be charged by the grantee in order to secure the additional services or modifications deemed inappropriate because of cost. The amount and effective date of the special rate increase shall be as mutually agreed upon by the city and the grantee.

(Ord. 51, passed 4-12-83)

CONSTRUCTION, OPERATION, AND MAINTENANCE

§ 112.30 AUTHORIZATION TO COMMENCE CONSTRUCTION.

The grantee shall obtain a permit from the proper municipal authority before commencing construction of the system, including the opening or disturbance of any street, sidewalk, driveway, or public place, and shall restore all property of the city and of the inhabitants thereof to its original condition after the installation of either aerial or underground cable or other construction work.

(Ord. 51, passed 4-12-83)

§ 112.31 INDEMNIFICATION.

(A) The grantee shall indemnify, hold harmless, and defend the city, its officers, and employees against and from any and all claims, lawsuits, proceedings, damages, costs, or liabilities arising out of the construction, operation, or maintenance of the cable system. The city and its officers and employees shall give the grantee prompt written notice of any claims filed against them in connection herewith.

(B) The grantee shall maintain in full force and effect during the term of this franchise a policy or policies of insurance with a financially responsible insurance company or companies, copies of which shall be filed with the city, providing comprehensive general liability coverage with the city, its officers, and employees named as additional insured. The policy or policies shall maintain at least the general liability limits being carried by the city, as these limits now exist or as they may hereafter be amended or modified, insuring both the city and the grantee with regard to all damages and penalties which they may be legally required to pay as a result of the exercise of the franchise and the construction, maintenance, or operation of the system.

(Ord. 51, passed 4-12-83)

§ 112.32 BOND.

Prior to commencement of construction, the grantee shall furnish a bond to the city equal to 125% of the construction costs; the bond shall be reduced to 25% of the construction costs after system turn-on, to remain in full force for the term of the franchise with acceptable surety conditioned upon the faithful performance by the grantee according to the terms of the franchise and upon the further condition that, in the event the grantee shall fail to comply with any law, ordinance, code provision, or regulation governing the franchise, there shall be recoverable jointly and severally from the grantee and surety of the bond any damages or loss suffered by the city, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee plus a

reasonable allowance for attorney fees and costs, up to the full amount of the bond, and further guaranteeing payment by the grantee of claims, liens, and taxes due to the city which arise by reason of the construction, operation, or maintenance of the system. The rights reserved by the city with respect to the bond are in addition to all other rights the city may have under the franchise or any other law. The city may, from year to year and at its sole discretion, reduce the amount of the performance bond.

(Ord. 51, passed 4-12-83; Am. Ord. 54, passed 9-13-83)

§ 112.33 RELOCATION OF EQUIPMENT.

Whenever the city deems it to be in the public interest to relocate or remove any of the grantee's cables, conduits, and/or other equipment located within the corporate limits of the city, the equipment shall forthwith be relocated at the grantee's own expense.

(Ord. 51, passed 4-12-83)

§ 112.34 LIABILITY FOR INJURY TO GRANTEE'S FACILITIES.

Nothing in the franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the grantee's facilities while performing any work connected with grading, regrading, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

(Ord. 51, passed 4-12-83)

§ 112.35 PROTECTION OF PUBLIC SAFETY AND COMMERCE.

The grantee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

(Ord. 51, passed 4-12-83)

§ 112.36 POLE USAGE.

The grantee shall use the existing poles, conduits, trenches, ducts, lines, and cables owned by other holders of public licenses and franchises within the corporate limits of the city whenever possible for the installation of its cable. When installation of cable on poles is not possible, when both major

utilities have installed underground cable, or when the city shall otherwise decide, the cable used by the grantee shall be installed underground at its expense.

(Ord. 51, passed 4-12-83)

§ 112.37 CONSTRUCTION SCHEDULE.

Within 90 days of the granting of the franchise, the grantee shall apply for all necessary permits, licenses, and authorizations required by law. Energized trunk cable shall be extended substantially throughout the authorized area within one year after their receipt and persons along the route of the energized cable shall have individual service connections as desired during the same period of time. The requirements of this provision may be waived by the city only upon occurrence of unforeseen events or acts of God.

(Ord. 51, passed 4-12-83)

§ 112.38 REMOVAL OF EQUIPMENT.

Upon expiration or other termination of the franchise, the grantee may remove, and upon demand of the city shall remove, its cable system from the streets and poles and restore same within one year after the date of expiration or termination. Upon the failure of the grantee to remove its system from the streets and poles after demand by the city, the city may remove the system and restore the streets and poles with its own employees and equipment or may contract for the removal of same and the grantee shall forthwith pay the city the cost and expense thereof.

(Ord. 51, passed 4-12-83)

RATES

§ 112.50 RATE SCHEDULE.

The grantee shall establish and adhere to the rate schedule proposed to and accepted by the city, which shall be included in the final franchise agreement signed by both the city and the grantee.

(Ord. 51, passed 4-12-83)

§ 112.51 RATE CHANGE PROCEDURE.

(A) The grantee may from time to time change its subscriber rates so as to ensure a fair and reasonable return on its investment as provided herein. A written application setting forth the proposed increase must be filed with the city at least 90 days prior to its proposed effective date.

(B) Such an application to the city for a rate increase shall be accompanied by such financial statements, pro forma projections showing the effect of the proposed increase, statements of fact, and such other documents and exhibits as are necessary to substantiate the need for the rate increase requested. The city may require the grantee to provide any information it feels pertinent to its evaluation of the application.

(C) After affording reasonable notice, the city shall hold a public hearing providing an opportunity for all persons to be heard. If following said hearing the city denies the proposed rate increase, the pre-existing rate shall remain in effect. Should the city approve the rate increase or a reduced rate increase, the rate shall take effect from the first day of the month following the date of the city's determination. If, however, the city takes no action to approve, deny, or adjust the proposed rate increase within 90 days of the grantee's application for a rate increase, the proposed increase shall go into effect as if the city had issued its approval.

(D) The grantee may appeal a denial of all or a portion of any proposed rate increase to the District Court of the State of Minnesota, the procedure upon appeal being governed by the Minnesota Rules of Civil Procedure. A notice of appeal must be served upon the City Administrator within 30 days of the denial.

(E) In the event the District Court determines the city's action in denying the requested rate increase was arbitrary or not supported by the preponderance of the evidence, the District Court may return the matter to the City Council for reconsideration.

(F) In the event the Court upholds the city's rate determination, the grantee shall pay all of the city's expenses, including reasonable attorney fees, incurred in defending the appeal.

(Ord. 51, passed 4-12-83)

SERVICE

§ 112.60 SYSTEM DESIGN AND AUXILIARY SERVICES.

(A) The grantee shall maintain its cable system with a minimum of 300 MHz of band width available for immediate and future use, and the system shall have the technical capability for two-way return communications.

(B) The proposal submitted to the city to provide cable services by the grantee shall be incorporated into the franchise and made a part thereof. All aspects of the proposal pertaining to system design and services accepted and approved by the city shall be provided. The following additional services shall be provided:

(1) (a) To the extent of the system's available channel capacity, the grantee shall provide to each of its subscribers who receive all or any part of the total services offered, reception on at least one specially designated public access channel. The public access channel shall be available for use by the general public, local educational authorities, and the city on a first come, non-discriminatory basis. No charge shall be made for channel time or playback of prerecorded programming on the public access channel. Charges for production costs and any fees shall be consistent with the goal of providing the city, the public, and local educational authorities a low cost means of television access. Any fee to be charged shall be as set forth in the grantee's rate schedule as established in the franchise agreement.

(b) Whenever the specially designated access channel is in use 80% of the weekdays or 80% of the time during any three-hour period for six weeks running, the grantee shall provide an additional channel designated for access use. The grantee shall have six months to provide the additional channel provided the new channel or channels shall not require the grantee to change converters.

(2) The grantee shall make readily available for public use at least the minimum equipment necessary for the production and playback of programming and the playback of prerecorded programming for the specially designated access channel. The equipment provided by the grantee shall also make it possible to record programs at remote locations.

(3) The grantee shall provide an emergency access audio override system for the use of the city, civil defense authorities, and local educational authorities. In the case of any declared emergency or disaster the grantee shall make its facilities available to the city for reasonable emergency use.

(4) The grantee shall provide a return line for the access channel from an accessible point within the franchise area, preferably the high school, City Hall, or both.

(Ord. 51, passed 4-12-83)

§ 112.61 TECHNICAL STANDARDS.

(A) The rules of the FCC relating to cable communications contained in Subpart K of Part 76 of the FCC's rules and regulations (47 CFR Part 76, Subpart K), are hereby incorporated into this franchise by reference. The results of any tests required by the FCC shall be filed with the city within ten days of the completion of such tests.

(B) The system shall deliver to the subscriber a signal that is capable of producing a black and white or color picture without visual material degradation in quality within the limitations imposed by the technical state of the art.

(C) The system shall transmit or distribute signals without causing objectionable cross- modulation in the cable or interfering with other electrical or electronic networks or with the reception of other television or radio receivers in the area not connected to the cable system.

(Ord. 51, passed 4-12-83)

§ 112.62 SUBSCRIBER PRIVACY.

No signals of a cable channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission with full knowledge of its provisions. The authorization may be revokable at any time by the subscriber without penalty and no penalty shall be invoked for a subscriber's failure to approve or renew such authorization.

(Ord. 51, passed 4-12-83)

§ 112.63 SERVICE RULES.

The grantee shall have the right to prescribe reasonable service rules for the conduct of its business and its customer relations not inconsistent with the provisions of this chapter. A copy of such rules and all additions, deletions, and amendments thereto shall be kept on file with the city throughout the life of the franchise.

(Ord. 51, passed 4-12-83)

§ 112.64 SERVICE POLICIES.

(A) The grantee shall extend cable service to any isolated residence at the standard installation rate if: the service connection to the isolated residence would require no more than a 200 foot drop line from an existing cable; and the resident requests the service extension.

(B) Any isolated residence requiring more than a 200 foot drop line from an existing cable shall be charged a premium installation rate. The premium installation rate shall be the standard installation rate plus the actual cost to the grantee for the distance in excess of 200 feet.

(C) The grantee shall extend cable service to any new development or group of residences at the standard rate if the development or group of residences to be served has a density of at least 30 homes per cable mile and at least 50 of the residences to be served have requested service. Any development or group of residences not meeting the above requirements may be served at the grantee's discretion upon such contractual terms as the grantee and developers or landowners may agree.

(Ord. 51, passed 4-12-83)

§ 112.65 REPAIRS AND COMPLAINTS.

(A) (1) The grantee shall provide a toll-free telephone number for subscriber complaints and shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request for service.

(2) All complaints by the city, subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the cable system shall be investigated by the grantee within 24 hours. The grantee shall rectify the cause of the complaint if reasonably possible. If a subscriber or citizen complaint is not resolved within ten working days the complainant may then file the complaint with the city. After consideration of the complaint and a finding that the grantee is at fault, the city may enact the provisions for termination of the franchise.

(B) Whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments, or installations, the grantee shall do so during periods of minimum use by subscribers. Unless such interruption is unforeseen, the grantee shall give reasonable notice thereof to the subscribers affected.

(Ord. 51, passed 4-12-83)

§ 112.98 VIOLATIONS.

(A) No person shall construct, operate, or maintain a cable communications system under, over, along, or across any street in the city for profit unless a franchise for such system and use of the streets has first been obtained and is in full force and effect.

(B) It is unlawful for any person to intentionally deprive the grantee of a lawful charge for cable television service by making, using, or attempting to make or use an unauthorized connection to the cable system whether physical, electrical, acoustical, inductive or any other type of connection, or attaching any unauthorized device to any cable, wire, microwave, or other component of a franchised cable communications system.

(C) It is unlawful for any person to intentionally tamper with, remove, or injure any cable, wire, or other component of a franchised cable system or to intentionally and without claim of right interrupt a service of said system.

(Ord. 51, passed 4-12-83) Penalty, see § 112.99

§ 112.99 PENALTY.

Violation of any provision of § 112.98 is punishable as a misdemeanor and as provided in § 10.99.

(Ord. 51, passed 4-12-83)

CHAPTER 113: GAMBLING AND BINGO

Section

- 113.01 Adoption of state law
- 113.02 Definitions
- 113.03 Lawful gambling
- 113.04 License investigation fee
- 113.05 Regulations

§ 113.01 ADOPTION OF STATE LAW.

M.S. Chapter 349 and the Rules adopted pursuant to the authority contained in the Statutes relating to lawful gambling, as they may be amended from time to time, are adopted by reference.

(Ord. 80, passed 5-12-92)

§ 113.02 DEFINITIONS.

(A) The terms used in this chapter and defined in M.S. §§ 349.11 through 349.22 and defined in the Rules adopted pursuant to the authority contained in those Statutes shall have the meanings set forth in those Statutes and Rules, as the same may be amended from time to time.

(B) For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

GAMBLING. Any activity or device prohibited by M.S. §§ 609.75, 609.755, and 609.76, as they may be amended from time to time, and shall further include any activity, event, or contrivance that simulates any such activity or device when in or on any commercial establishment or property, except as otherwise allowed pursuant to city ordinance or code provision or Minnesota Statutes or Rules adopted pursuant to authority contained therein. Prohibited gambling and gambling situations include, but are not limited to, sports bookmaking, poker, blackjack, slot machines, and other similar activities, events, and contrivances normally associated with gambling and gambling locations.

(Ord. 80, passed 5-12-92)

§ 113.03 LAWFUL GAMBLING.

(A) There shall be no gambling in the city except bingo, raffle games, and pull-tabs duly licensed or otherwise allowed pursuant to the provisions of this chapter, M.S. §§ 349.11 through 349.22, and Rules adopted pursuant to the authority contained in the Statutes, as they may be amended from time to time.

(B) No city permit shall be required for the conduct of gambling exempt from licensing under M.S. § 349.166 as it may be amended from time to time.

(C) Nothing in this chapter shall be deemed to be an automatic approval of a license applied for with the Charitable Gambling Control Board. The city reserves the right to disapprove licenses for individual bingo occasions, raffle games, and pull-tab distributions.

(Ord. 80, passed 5-12-92) Penalty, see § 10.99

Cross-reference:

Nuisances; gambling houses, see § 91.17

§ 113.04 LICENSE INVESTIGATION FEE.

An organization applying for or renewing a license to conduct lawful gambling or to operate a bingo hall must pay to the city an investigation fee in the amount of \$100.

(Ord. 80, passed 5-12-92)

§ 113.05 REGULATIONS.

In addition to the requirements of M.S. §§ 349.11 through 349.22 and rules adopted pursuant to the authority contained in the Statutes, as they may be amended from time to time, lawful gambling shall be subject to the regulations set forth in the following subdivisions:

(A) It is unlawful to make side bets or other wagers in connection with the conduct of lawful gambling.

(B) A bingo or raffle game duly licensed or otherwise allowed pursuant to this chapter may only be conducted or operated by members of the licensed organization who are 18 years of age or older. No member shall receive any compensation whatsoever for his or her services in conducting, assisting in conducting, or operating any such game, and no person shall so assist in operating the same unless he or she shall have been and shall then be a member or a spouse of a member in good standing in the organization for at least one year. This subdivision shall not apply to pull-tab distributions.

(C) No bingo or raffle license will be approved for an organization that also operates another bingo or raffle game in the city. No person who is under the age of 21 years shall operate or assist in operating a pull-tab distribution in the city.

(D) No license or premises permit, nor any renewal of either, will be approved for:

(1) Any organization to conduct a pull-tab distribution on any premises other than a church, the premises of a fraternal, veterans, or other non-profit organization, or the premises for which an on-sale liquor license is currently issued.

(2) Any organization or local subdivision thereof unless all the following requirements are met:

(a) The organization or the local subdivision has been in continuous existence holding meetings and conforming with the requirements of this division (D)(2) for more than one year prior to the approval of the license;

(b) The organization contributes 10% of its net profits derived from lawful gambling to a fund administered and regulated by the city, without cost to the fund, for disbursement by the city for lawful purposes. The

contribution must be made annually prior to October 1. The city's use of such funds shall be determined at the time of adoption of the city's budget or any amendments thereto. For purposes of this division (b), the term NET PROFITS shall mean all monies received from lawful gambling minus amounts spent for necessary and statutorily allowed expenses related to the lawful gambling;

(c) Eighty percent of the licensee's expenditures for lawful purposes must be on lawful purposes conducted or located within the city's trade area. For purposes of this division (c), the term TRADE AREA means and includes the area within the boundaries of the City of St. Michael and each city and township contiguous to the City of St. Michael; and

(d) The organization must file with the city a copy of all expenditure reports required to be filed with the state, and the filing with the city must be made according to the same schedule as that required by the state. The city may, from time to time, also require such additional reporting as the city deems necessary.

(3) The conduct of a pull-tab distribution by more than one organization on premises where such activities are authorized.

(4) Any one organization to conduct pull-tab distributions at more locations than the Council deems reasonable and appropriate based on the following factors:

(a) The number of locations of the type referred to in division (D)(1) above;

(b) The number of applications for pull-tab distributions by other organizations;

(c) The extent of the applicant's present distribution system; and

(d) The city's desire to prevent monopolies and promote equitable application of this chapter.

(E) It is unlawful to sell, give, or otherwise transfer in the city any raffle ticket, paddle ticket, or any other opportunity to participate in any gambling event not approved by the city pursuant to the provisions of the Statutes and Rules adopted by reference in § 113.01. This prohibition extends to any gambling event which would otherwise be allowed pursuant to the exemptions set forth in M.S. § 349.166 as it may be amended from time to time if the organization to which the exemption applies is located outside the city.

(Ord. 80, passed 5-12-92; Am. Ord. 0802, passed 3-11-08) Penalty, see § 10.99

CHAPTER 114: FIREWORKS SALES

Section

114.01 Prohibited uses

§ 114.01 PROHIBITED USES.

Sale of fireworks in a non-permanent structure is prohibited.

(Ord. 0305, passed 4-8-03)

CHAPTER 115: PAWN SHOPS

Section

115.01 Purpose

115.02 Definitions

115.03 License required

115.04 Application required

115.05 Processing of license application

115.06 License eligibility

115.07 License restriction

115.08 Issuance of license; conditions

115.09 License fees

115.10 Bond required

115.11 Records required

115.12 Daily reports to law enforcement

115.13 Receipt required

115.14 Redemption period

115.15 Holding period

115.16 Law enforcement order to hold property

115.17 Inspection of items

115.18 Label required

115.19 Prohibited acts

115.20 Denial, suspension or revocation

115.21 Business at only on place

115.22 Separability

§ 115.01 PURPOSE.

The City Council enacts this chapter of the City Code in order to further the following:

(A) The prevention of pawnshops from being used as facilities for the commission of crime.

(B) The identification of criminal activities through timely collection and sharing of pawn transaction information.

(C) The promulgation of consumer protection standards to be adhered to by the pawn industry.

(D) To separate youth from the pawn industry.

(E) To protect property values, prevent blight, and protect the public health, safety and general welfare.

(F) To stabilize the city's cost of regulating the pawn industry.

(Ord. 0802, passed 3-11-08)

§ 115.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawnbroker except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession is a billable transaction.

PAWNBROKER. Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

REPORTABLE TRANSACTION. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except: (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; and (2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(Ord. 0802, passed 3-11-08)

§ 115.03 LICENSE REQUIRED.

No person shall engage in the business of pawnbroker at any location without a pawnbroker license for that location. No pawnbroker license may be transferred to a different location or a different person. Issuance of a license under this chapter shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other location.

(Ord. 0802, passed 3-11-08)

§ 115.04 APPLICATION REQUIRED.

(A) Contents. An application form provided by the City Clerk must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(1) If the applicant is a natural person:

(a) The name, place and date of birth, street resident address, and phone number of applicant.

(b) Whether the applicant is a citizen of the United States or resident alien.

(c) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.

(d) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01.

(e) The street address at which the applicant has lived during the preceding five years.

(f) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five years.

(g) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.

(h) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (A)(1)(a) through (A)(1)(g).

(2) If the applicant is a partnership:

(a) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A)(1) of this section.

(b) The name(s) of the managing partner(s) and the interest of each partner in the licensed business.

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, a certified copy of such certificate must be attached to the application.

(3) If the applicant is a corporation or other organization:

(a) The name of the corporation or business form, and if incorporated, the state of incorporation.

(b) A true copy of the certificate of incorporation, articles of incorporation or association agreement, and by-laws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, must be attached.

(c) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in divisions (A)(1)(a) through (A)(1)(g) of this section.

(4) For all applicants:

(a) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.

(b) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker precious metal dealer, or secondhand dealer license from any other governmental unit.

(c) The location of the business premises.

(d) Such other information as the City Council or issuing authority may require.

(B) Applications. All applications for a license under this chapter must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of a license.

(Ord. 0802, passed 3-11-08)

§ 115.05 PROCESSING OF LICENSE APPLICATION.

(A) Investigation. The city's law enforcement agency must investigate the truthfulness of the statements set forth in the application for a license under this chapter and shall endorse the findings thereon. The applicant must furnish to the city's law enforcement agency such evidence as the law enforcement agency may reasonably require in support of the statements set forth in the application.

(B) Public hearing.

(1) Required. The City Council shall afford the applicant and all interested parties a public hearing.

(2) Recommendation; publication of notice. Within 45 days of the filing of a complete application, the city's law enforcement agency and any other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the license, setting forth the facts upon which the recommendation is based. Upon receipt of the written report and recommendation of the city's law enforcement agency and within 20 days thereafter, the city shall cause to be published in the official newspaper notice of hearing to be held by the City Council. The notice shall be published at least ten days in advance of the hearing, and it shall set forth the day, time and place when the hearing will be held, the name of the

applicant, the location where the business is or will be conducted and such other information as the Council may direct.

(3) Mailing of notice.

(a) At least 15 days before a public hearing on an original application for a license, the city shall send by mail notice of the time, place and purpose of such hearing to all owners and occupants of property within 350 feet of the lot on which the establishment to be licensed is located.

(b) Prior to the hearing date, the City Council shall receive a list from the applicant of the names and addresses of each person to whom notice is to be sent, and certification of such list by the zoning administrator shall be conclusive evidence of such notice.

(c) The failure to give mailed notice to such owners or occupants within 350 feet, or defects in the notice, shall not invalidate a license provided a bona fide attempt to comply with this section has been made. A bona fide attempt is evidence by a notice addressed to "owner" and to "occupant" of the listed address.

(4) Action by Council. The City Council shall afford the applicant and all interested parties a public hearing no later than 75 days after the filing of a complete application, and shall have the discretion to consider in granting, denying, renewing, or declining to renew a license at that hearing any matter, including, but not limited to, provisions of this chapter deemed by the City Council to be relevant to protection of the public's health, safety and welfare and minimization may be extended upon the written request of the applicant.

(5) Notification of decision. The city shall notify the applicant of the Council's decision and provide a copy of the City Council action on the application.

(Ord. 0802, passed 3-11-08)

§ 115.06 LICENSE ELIGIBILITY.

No license under this chapter will be issued to an applicant who is a natural person, a partnership if such applicant has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

(A) Is a minor at the time that the application is filed.

(B) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, and has not shown

competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. § 364.03, subd. 3.

(C) Is not of good moral character or repute.

(D) The applicant or licensee has been convicted of receiving stolen property, sale of stolen property or a controlled substance, burglary, robber, theft, damage, or trespass to property, any law or ordinance regulating the business of pawnbroker or any other law or ordinance related to the fitness of the applicant to operate the proposed business within the last ten years of the license application date.

(E) The applicant or licensee has had a pawnbroker license revoked within ten years of the license application date.

(F) The taxes, assessments or other financial claims of the city or the state on the licensee's business premises are delinquent and unpaid.

(G) The applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises, which improvements have not been completed.

(Ord. 0802, passed 3-11-08)

§ 115.07 LICENSE RESTRICTIONS.

(A) The maximum allowable number of pawnbroker licenses shall be two.

(B) Each license under this section shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

(C) The City Council may revoke the pawn license of any business that shows no pawn activity for a period of six months. A hearing shall be held to determine the status of the pawn operation and if satisfactory intent to do business under the license is not demonstrated, the City Council may revoke the license.

(D) A pawnbrokers license shall be issued only for the exact rooms and square footage of the premises described in the application.

(E) No license shall be granted until all applicable zoning requirements are met.

(Ord. 0802, passed 3-11-08)

§ 115.08 ISSUANCE OF LICENSE; CONDITIONS.

All licenses are subject to the following conditions:

(A) The lot must be at least 1,000 feet from the property line of a site containing another pawnshop, currency exchange, payday loan agency, gun shop, liquor store or sexually-oriented business. In the case of a shopping center or multi-use building, the distance shall be measure from the portion of the center or building occupied by the pawnshop.

(B) The premises must be located at least 300 radial feet from a licensed day care facility, private residence, house of worship, school, playground, park, library, or other community recreational center or facility, secondhand good store, consignment house, or auction house. For the purpose of this section, measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest point of the lot containing or to contain the pawnshop, to the nearest point of the lot containing one of the mentioned uses.

(C) The operation of the licensed premises must be located in the B-1 zoning district.

(D) The pawnshop use shall not operate in conjunction with a sexually-oriented business.

(E) In-vehicle sales or services are prohibited.

(F) Fire arm transactions are prohibited.

(G) Exterior loudspeakers or public address systems are prohibited.

(H) Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors, by keeping all windows free of obstructions for at least three feet into the store. Product may be displayed for sale in the window as long as the display, including signage, does not occupy more than 30% of the window area.

(I) Interior and exterior bars, grills, mesh or similar obstructions, whether temporary or permanently affixed, shall not cover any exterior door or window area.

(J) Neon accents and back-lighted awnings shall be prohibited.

(Ord. 0802, passed 3-11-08)

§ 115.09 LICENSE FEES.

(A) Annual license fee. Each application for a license shall be accompanied by payment in full of the required application fee as specified

in the fee schedule as adopted by the City Council. Upon rejection of any application for a license, the city shall refund the amount paid. No other refunds shall be made.

(B) Investigation fee. The applicant for a new license under this chapter or for the renewal of an existing license that is more than six months past due, or a manager if other than the applicant, or a new manager, shall deposit payment in full of the required investigation fee as specified in the fee schedule as adopted by City Council to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to ensure compliance with this chapter.

(C) Billable transaction fee. The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary every six months. Licensees shall be notified in writing 30 days before any adjustment is implemented. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this chapter.

(Ord. 0802, passed 3-11-08)

§ 115.10 BOND REQUIRED.

Before a license will be issued, every applicant must submit a \$5,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon the licensing authority.

(Ord. 0802, passed 3-11-08)

§ 115.11 RECORDS REQUIRED.

At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the city's law enforcement agency.

(A) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(B) The purchase price, amount of money loaned upon, or pledged therefore.

(C) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

(D) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

(E) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of property was received, including: sex, height, weight, race, color of eyes and color of hair.

(F) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license.

(2) Current valid Minnesota identification card.

(3) Current valid photo identification card issued by another state or province of Canada.

(G) The signature of the person identified in the transaction.

(H) Effective 60 days from the date of notification by the city's law enforcement agency of acceptable video standards the licensee must also take a color photograph or color video recording of:

(1) Each customer involved in a billable transaction.

(2) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the County Sheriff or the Sheriff's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that

person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person orally that he or she is being videotaped and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.

(I) Digitized photographs. Effective 60 days from the date of notification by the city's law enforcement agency licensees must fulfill the color photograph requirements in § 115.11(H) by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding, the digital images may be captured from required video recordings. This provision does not alter or amend the requirements in § 155.11(H).

(J) Renewals, extensions and redemptions. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction and the type of transaction.

(K) Inspection of records. The records must at all reasonable times be open to inspection by the city's law enforcement agency or department of licenses and consumer services. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(Ord. 0802, passed 3-11-08)

§ 115.12 DAILY REPORTS TO LAW ENFORCEMENT.

(A) Effective no later than 60 days after the city's law enforcement agency provides licensees with computerized record standards, licensees must submit every reportable transaction to the city's law enforcement agency daily in the following manner:

(1) Licensees must provide to the city's law enforcement agency all information required in § 115.10(A) through (F) and other required information by transferring it from their computer to the automated pawn system via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(B) Billable transactions fees. Licensees will be charged for each billable transaction reported to the Police Department.

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the video tape(s) for that date by 12:00 p.m. the next business day.

(2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in § 115.12(B)(1), and must be charged a \$50 reporting failure penalty, daily, until the error is corrected.

(3) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in § 115.12(B)(1) and resubmit all such transactions via modem when the error is corrected.

(4) If a licensee is unable to capture, digitize or transmit the photographs required in § 115.11(I), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the County Sheriff upon request.

(5) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

(6) Section 115.12(B)(1) through (B)(3) notwithstanding, the city's law enforcement agency may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Ord. 0802, passed 3-11-08)

§ 115.13 RECEIPT REQUIRED.

Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

(A) The name, address and telephone number of the licensed business.

(B) The date and time the item was received by the licensee.

(C) Whether the item was pawned or sold, or the nature of the transaction.

(D) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item.

(E) The signature or unique identifier of the licensee or employee that conducted the transaction.

(F) The amount advanced or paid.

(G) The monthly and annual interest rates, including all pawn fees and charges.

(H) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

(I) The full name, current residence address, current residence telephone number and date of birth of the pledger or seller.

(J) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license.

(2) Current valid Minnesota identification card.

(3) Current valid photo driver's license or identification card issued by another state or province of Canada.

(K) Description of the pledger or seller including sex, approximate height, weight, race, color of eyes and color of hair.

(L) The signature of the pledger or seller.

(M) All printed statements as required by M.S. § 325J.04, subd. 2, or any other applicable statutes.

(Ord. 0802, passed 3-11-08)

§ 115.14 REDEMPTION PERIOD.

Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold during the 90 day holding period, items may not be removed from the licensed location except as provided in § 115.21. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the law

enforcement license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with § 115.11(J).

(Ord. 0802, passed 3-11-08)

§ 115.15 HOLDING PERIOD.

Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(Ord. 0802, passed 3-11-08)

§ 115.16 LAW ENFORCEMENT ORDER TO HOLD PROPERTY.

(A) Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency with 72 hours and will remain in effect for 15 days from the date of initial notification or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to division (B), whichever comes first.

(B) Order to hold. Whenever the County Sheriff or Sheriff's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Sheriff or Sheriff's designee. The order to hold shall expire 90 days from the date it is placed unless the Sheriff or the Sheriff's designee determines the hold is still necessary and notifies the licensee in writing.

(C) Order to confiscate. If an item is identified as stolen or evidence in a criminal case the Sheriff or Sheriff's designee may:

(1) Physically confiscate and remove it from the shop, pursuant to written order from the Sheriff or Sheriff's designee; or

(2) Place the item on hold or extend the hold as provided pursuant to division (B); and leave it in the shop. When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Sheriff or Sheriff's designee shall so notify the licensee.

(Ord. 0802, passed 3-11-08)

§ 115.17 INSPECTION OF ITEMS.

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in § 115.21 during normal business hours, except in an emergency for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter and other applicable laws.

(Ord. 0802, passed 3-11-08)

§ 115.18 LABEL REQUIRED.

Licensee must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the city's law enforcement agency whichever is applicable and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(Ord. 0802, passed 3-11-08)

§ 115.19 PROHIBITED ACTS.

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(B) No licensee may receive any goods from a person of unsound mind or an intoxicated person.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

(D) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

(E) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another person has a security interest; with any licensee.

(F) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name, nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

(Ord. 0802, passed 3-11-08)

§ 115.20 DENIAL, SUSPENSION OR REVOCATION.

Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:

(A) The proposed use does not comply with any applicable zoning code.

(B) The proposed use does not comply with any health, building, building maintenance or other provisions of this Code of Ordinances or state law.

(C) The applicant or licensee has failed to comply with one or more provisions of this chapter.

(D) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

(E) Fraud, misrepresentation or bribery in securing or renewing a license.

(F) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(G) Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

(Ord. 0802, passed 3-11-08)

§ 115.21 BUSINESS AT ONLY ONE PLACE.

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the city's law enforcement agency may approve an offsite locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § 115.17. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the City Code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premise that extends for more than six months.

(Ord. 0802, passed 3-11-08)

§ 115.22 SEPARABILITY.

Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid such decision shall not affect the validity of the ordinance as a whole or any part other than the part so declared invalid.

(Ord. 0802, passed 3-11-08)

CHAPTER 116: MOBILE FOOD UNITS

Section

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§ 116.01 PURPOSE.

This chapter is enacted to permit the reasonable use of mobile food units while preventing any adverse consequences to residents, businesses, and public property.

(Ord. 1903, passed 6-25-19)

§ 116.02 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD UNIT. Mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minn. Rules, Part 4626.0020, Subpart 70; or

(2) Operated in conjunction with a permanent business licensed under M.S. Chapters 28A or 157 at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

(Ord. 1903, passed 6-25-19)

§ 116.03 LICENSING.

(A) State and county license required. No person shall operate a mobile food unit within the city limits without first having obtained the appropriate license from the state or county as may be required by M.S. Chapter 329, as it may be amended from time to time, or as may be required under any other applicable state statute, rule, or regulation.

(B) City license required. Except as otherwise provided by this chapter, no person shall operate a mobile food unit without first obtaining a city license. A license to operate a mobile food unit shall be issued pursuant to, and the operation of a mobile food unit shall be regulated by, this chapter and not by Chapter 96 of this code.

(C) Application. An application for a city license to operate a mobile food unit shall be made at least 14 regular business days before the applicant desires to begin operating a mobile food unit within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. Any fraud, misrepresentation, or false statement on the application shall constitute a violation of this chapter

and shall be grounds for denial of the license application. All applications shall be signed by the applicant.

(D) All applications shall include the following information:

- (1) The applicant's full legal name;
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;
- (3) A physical description of the applicant (hair color, eye color, height, weight, and distinguishing marks or features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent;
- (7) Full address of applicant's regular place of business, if any exists;
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) The dates on which the applicant intends to operate the mobile food unit;
- (10) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the address of the location where the mobile food unit will be operated;
- (11) A statement as to whether or not the applicant has been convicted within the previous five years of any felony, gross misdemeanor, or misdemeanor for violating any state or federal statute or any local ordinance, other than for minor traffic offenses;
- (12) A list of the three most recent locations where the applicant has operated a mobile food unit;
- (13) Proof of receipt of all required state and/or county licenses to operate a mobile food unit;
- (14) Written permission of the property owner or the property owner's agent for any location to be used by the mobile food unit;
- (15) Any and all additional information as may be deemed necessary by the City Council;
- (16) The applicant's driver's license number or other form of identification acceptable to the city;

(17) The license plate number, registration information, vehicle identification number (VIN), and physical description for any vehicle to be used in conjunction with the licensed business operation, including proof of receipt of a MNDOT number for the mobile food unit; and

(18) Insurance. Applicants shall furnish the city with certificate of insurance by an insurance

company authorized to do business in the state, evidencing the following forms of insurance:

(a) Commercial general liability insurance, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than \$2,000,000;

(b) Commercial automobile liability insurance with a limit of not less than \$1,000,000 each occurrence. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;

(c) Food products liability insurance, with a limit of not less than \$1,000,000 each occurrence;

(d) Umbrella/excess liability insurance, with a limit of not less than \$1,000,000 each occurrence;

(e) Workers compensation insurance (statutory limits) or evidence of exemption from state law;

(f) The city shall be endorsed as an additional insured on the general liability, auto liability, and umbrella/excess liability policies. The insurance coverage must be primary and non-contributory. This certificate must be on file with the city if the applicant intends to operate its vehicle on public property including public right-of-way;

(g) The general liability, business auto, and worker's compensation policies should all contain waivers of subrogation with reference to the City of St. Michael; and

(h) The certificate of insurance must contain a provision requiring a ten day notification be sent to the city should the policy be cancelled before its expiration.

(E) Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule ordinance as it may be amended from time to time by the City Council.

(F) Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk, or its designee, shall within ten business days determine if the application is complete. An application will be

considered complete if all required information is provided. If the City Clerk, or its designee, determines that the application is incomplete, the City Clerk, or its designee, shall inform the applicant of the required, necessary information that is missing. The City Clerk, or its designee, shall review a complete application and order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk, or its designee, shall issue the license unless grounds exist for denying the license application under § 116.05 of this chapter, in which case the Clerk, or its designee, shall deny the request for a city mobile food unit license. If the City Clerk, or its designee, denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a hearing.

(G) Duration. A license is valid for each calendar year, beginning January 1 and ending December 31.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.04 LICENSING EXEMPTIONS.

(A) Holders of conditional use or special event permits. Where outdoor sales are permitted under a conditional use or special event permit approved by the City Council, this chapter shall apply only to the extent that such provisions have been included in the conditional use or special event permit. Nothing herein shall limit the authority of the City Council to impose other reasonable conditions where they are deemed by the city to be appropriate.

(B) Private events. No license shall be required for any mobile food unit contracted by a property owner for a private event where food is not sold to guests or any other member of the public.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.05 INELIGIBILITY FOR LICENSE.

The following shall be grounds for denying a mobile food unit license:

(A) The failure of an applicant to obtain, or failure to demonstrate proof of having obtained, any required state and/or county license;

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process;

(C) The failure of an applicant to sign the license application;

(D) The failure of an applicant to pay the required fee at the time of application;

(E) A conviction within the previous five years of the date of the application for any violation of any federal or state statute or regulation, or of any city ordinance or code requirement, which adversely reflects upon the applicant's ability to operate a business for which the license is being sought in a professional, honest, and legal manner. Such violation shall include, but is not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(F) The revocation within the previous five years of any license issued to an applicant for the purpose of operating as a mobile food unit; and/or

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.06 LICENSE SUSPENSION AND REVOCATION.

(A) Generally. Any license issued under this chapter may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge obtained by the city of fraud, misrepresentation, or incorrect statements provided by an applicant on the application form;

(2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under § 116.05 of this chapter;

(4) Engaging in any prohibited activity as provided under § 116.09 of this chapter; or

(5) Violation of any other provision of this chapter.

(B) Notice. Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with verbal and written notice of alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application; if no residential address is listed, then to the business address provided on the license application.

(C) Hearing. Upon receiving the notice provided in division (B) of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the City Clerk or its designee within seven days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame it shall be scheduled within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(D) Emergency. If, in the discretion of the City Clerk or City Administrator, imminent harm to the health or safety of the public may occur because of the actions of a licensee operating a mobile food unit licensed under this chapter, the City Clerk, or its designee, may immediately suspend the mobile food unit license and provide notice of the right to hold a subsequent hearing as prescribed in division (C) of this section.

(E) Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.07 LICENSE TRANSFERABILITY.

A license issued under this chapter shall be valid only for the licensee to whom the license was issued. A license shall not be transferred to any other person.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.08 ADDITIONAL LICENSING CONDITIONS.

All licensees operating mobile food units, with the exception of exempt groups or vendors as provided in § 116.04, are required to comply with the additional following standards and conditions.

(A) License. Mobile food units must be licensed by the Minnesota Health Department and must adhere to state regulations for food trucks as provided in Food Code Chapter 4626.1860, Mobile Food Establishments; Seasonal Temporary Food Stands; Seasonal Permanent Food Stands. Evidence of the state license must be provided to the city as part of the local license application. Licenses are issued on an annual basis and permit mobile food units to operate at up to four locations in the community during the course of the year, not to exceed 21 days per location.

(B) Location. A mobile food unit may only operate in accordance with the following.

(1) Mobile food units are permitted in private commercial, industrial, public/institutional parking lots and on private residential property, with the written consent of the private property owner, for a "one-time" event. When operations occur on private residential property, mobile food unit sales may only be for catering purposes (such as a private graduation party or wedding) and not open for sales to the general public.

(2) Mobile food units must be a minimum of five feet from driveways and side and rear property lines.

(3) Mobile food units cannot be located within 300 feet from the perimeter of any pre-approved festival, sporting event, or civic event unless the licensee operating the mobile food unit submits written verification to the City Clerk that the licensee is authorized to operate the mobile food unit as part of the festival, sporting event, or civic event.

(4) Mobile food units may not operate within 100 feet from a public entrance to any restaurant and/or within 100 feet from any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from restaurant owner.

(5) Mobile food units may not be operated in city-owned parking lots, except those parking lots adjacent to or inside a city park in conjunction with a special event approved by the city.

(C) Standards. A mobile food unit licensee is subject to the following performance standards.

(1) Trash, recycling containers, and cleanup must be provided. The mobile food unit licensee is responsible for daily removal of trash, litter, recycling, and refuse from the area surrounding the operation of the mobile food unit. Trash and recycling containers must be equipped with a tight-fitting lid and located within five feet of the mobile food unit.

(2) A mobile food unit must have its own independent power supply, which is screened from view and complies with city's noise regulations. Generators are permitted.

(3) A licensed operator of a mobile food unit must lawfully dispose of gray water daily. Gray water may not be drained into city storm water drains.

(4) Mobile food units may not be operated between 10:00 p.m. and 8:00 a.m. An exception to these hour restrictions may be authorized by City Council on a per event basis.

(5) Mobile food units must be located on a paved surface and may not be operated in a traffic lane, on a sidewalk or trail, or in any location which causes an obstruction of traffic. A mobile food unit may be operated on a public street for a private event in a residential zoning district, with location approval from the city and receipt by the city of the licensee's signed indemnification and hold harmless agreement in a form prepared by the city.

(6) A mobile food unit may not occupy more than two off-street parking spaces. The city shall determine if there is adequate off-street parking to serve both the principal and the mobile food unit use of the property.

(7) A mobile food unit may have a maximum bumper to bumper length of no more than 30 feet.

(8) Mobile food units shall not be left unattended nor remain at an authorized location outside allowed hours of operation.

(9) Mobile food units must close during adverse weather conditions when shelter is not provided.

(10) Mobile food units may not travel in or on public sidewalks or trails.

(11) Mobile food units shall comply with all applicable Fire Codes. A licensee shall allow a mobile food unit to be inspected by a City Fire Official prior to operation.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.09 PROHIBITED ACTIVITIES.

No person engaged in the business of a mobile food unit operation shall conduct such activity in any of the following manners.

(A) Refusing to leave. It shall be unlawful to refuse to leave premises owned or leased by another after having been notified by the owner or occupant to leave the premises.

(B) Misrepresentation. It shall be unlawful to make false, misleading, or fraudulent statements concerning the quality of the food which is being offered for sale.

(C) Use of audio devices or unreasonable noise. It shall be unlawful to call attention to activities regulated by this chapter by means of blowing a horn or whistle, by ringing any bell, by crying out, or by making any other noise in an unreasonable manner.

(D) Obstructing traffic. It shall be unlawful to obstruct the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

(E) Safety hazard. It shall be unlawful to conduct activities regulated by this chapter in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.

(F) Proof of license. It shall be unlawful to fail to provide proof of license, registration, or identification when requested, or to use those of another person.

(G) Harassment. It shall be unlawful to conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.10 COMPLIANCE WITH ZONING.

Mobile food units shall be operated in compliance with all requirements of the Zoning Code. Compliance with the Zoning Code location, information, and plan requirements shall be verified in writing by the Zoning Administrator.

(Ord. 1903, passed 6-25-19) Penalty, see § 116.99

§ 116.99 PENALTY.

Any person convicted of violating this chapter shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both, as specified by state statute.

(Ord. 1903, passed 6-25-19)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

130.01 Curfew for minors

130.02 Disorderly conduct

130.03 Discharge of firearms

130.04 Bows and arrows

130.05 Explosive instruments

130.06 Loitering; offensive language and conduct

130.07 Noise

130.08 Trespassing

130.99 Penalty

Cross-reference:

Cable television; violations; unauthorized connections and tampering, see § 112.98

False fire alarms, see § 32.55

Fire Department; equipment use, see § 32.56

Gambling and bingo, see Ch. 113

Nuisances; gambling, houses of ill fame, bawdy houses, see § 91.17

Nuisances; harassing telephone calls, see § 91.17

Nuisances; window peeping, see § 91.17

Sewers; damage to treatment facilities, see § 51.55

§ 130.01 CURFEW FOR MINORS.

(A) Purpose. The curfew for minors established by this section is maintained for four primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the police dispatcher.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school-sanctioned event.

(C) Hours.

(1) Minors under the age of 16 years. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official city time.

(2) Minors ages 16 years to 18 years. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or

other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 11:00 p.m. and 5:00 a.m. the following day, official city time.

(D) Effect on control by adult responsible for minor. Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) Exceptions. The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of such business trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To a minor on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not

complain to the city's designated law enforcement provider about the minor's presence;

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) Duties of person legally responsible for minor. No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) Duties of other persons. No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) Penalties.

(1) Minors. Any minor found to be in violation of this section may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260.185, as amended.

(2) Adults. Any adult person found to be in violation of this section shall be guilty of a misdemeanor and may be sentenced up to the maximum penalty authorized by state law for a misdemeanor.

(I) Defense. It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

§ 130.02 DISORDERLY CONDUCT.

(A) Whoever does any of the following in a public or private place, including on a school bus, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) Engages in brawling or fighting; or

(2) Disturbs an assembly or meeting, not unlawful in its character; or

(3) Engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

(B) A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Penalty, see § 130.99

§ 130.03 DISCHARGE OF FIREARMS.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FIREARM. Includes all rifles, shotguns, handguns, weapons using smokeless or black powder, and pellet weapons, whether gas, pneumatic, battery or spring powered.

(B) Prohibited. The discharge of any firearm of any kind or description is prohibited within the city except in the following described areas or under the following circumstances:

(1) Those areas that are classified as agricultural zoning districts pursuant to the city's zoning map;

(2) Parcels of land 20 acres or more in size that are actively in agricultural use; and

(3) Where the use of a firearm is expressly authorized by state or federal law.

(Ord. 99, passed 9-3-96; Am. Ord. 117, passed 10-27-98; Am. Ord. 0703, passed 7-10-07; Am. Ord. 1106, passed 8-9-11) Penalty, see § 130.99

Cross-reference:

Zoning, see Ch. 154

§ 130.04 BOWS AND ARROWS.

The use of a bow and arrow is prohibited within the city except as follows:

(A) A bow and arrow may be used in those areas that are classified as agricultural zoning districts pursuant to the St. Michael Zoning Ordinance;

(B) A bow and arrow may be used in parcels of land 20 acres or more in size that are actively in agricultural use;

(C) A bow and arrow may be used in a regulated, confined archery range;

(D) A permit may be issued by the city to allow a bow and arrow to be used to hunt deer subject to the following conditions:

- (1) A written application for a permit must be submitted to the city;
- (2) The city must find that the location of the land for which the deer hunt permit is requested is in an area that is reasonably safe for such a use of a bow and arrow;
- (3) The permit shall be for a limited period of time as determined by the city;
- (4) The permit may issued only for the limited purpose of controlling the deer population in an area where the city finds that damage to property causing significant economic loss has been caused by deer overpopulation and that further damage is reasonably likely to occur unless the bow and arrow deer hunt is allowed;
- (5) The deer hunting must be primarily from a stand;
- (6) The applicant must comply with all conditions established by the city in conjunction with the issuance of the permit;
- (7) The applicant must comply with all state hunting laws and regulations.

(Ord. 99, passed 9-3-96; Am. Ord. 117, passed 10-27-98; Am. Ord. 131, passed 11-14-00) Penalty, see § 130.99

Cross-reference:

Zoning, see Ch. 154

§ 130.05 EXPLOSIVE INSTRUMENTS.

No person shall fire, explode, or set off any explosive instrument (except for the discharge of firearms pursuant to the terms of § 130.03), substance, or material anywhere within the limits of the city.

(Ord. 99, passed 9-3-96) Penalty, see § 130.99

Cross-reference:

Nuisances; explosives and combustible material; see § 91.18

§ 130.06 LOITERING; OFFENSIVE LANGUAGE AND CONDUCT.

(A) Prohibited conduct. It shall be unlawful for any person to loiter, loaf, wander, stand, or remain idle either alone or with others in a public place in

such manner so as to violate any provision of the subdivisions of this section which follow:

(1) No person shall obstruct any public street, public highway, public sidewalk, or any other public place or building by hindering or impeding, or do any act tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic, or pedestrians.

(2) No person shall commit, in or upon any public street, public highway, public sidewalk, or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon, and thereto.

(3) No person shall loiter, stand, sit, or lie in or upon any public property, sidewalk, street, curb, crosswalk, walkway area, parking lot, mall, or other portion of private property open for public use so as to unreasonably block, obstruct, or hinder free passage of the public.

(4) No person shall, without consent of the owner or occupant, unreasonably block, obstruct, or hinder free access to the entrance of any building or part of a building open to the public.

(5) No person shall loiter, stand, sit, or lie in any area where a sign prohibiting loitering has been posted.

(6) No person in any public or private place shall use offensive, obscene, or abusive language, or grab, follow, or engage in any conduct which unreasonably tends to arouse alarm, anger, fear, or resentment in another.

(B) Violations and exemptions.

(1) Violations. When any person causes or commits any of the acts enumerated in (A) and is ordered by the owner, agent, manager, or person in charge of the premises, or by any law enforcement officer, to stop causing or committing such acts and to move on or disperse, and fails or refuses to obey such an order or returns to the premises within 24 hours after having been so requested or ordered shall be guilty of a violation of this section.

(2) Exemptions. Acts authorized as an exercise of a person's constitutional right to freedom of speech and assembly shall not constitute a violation of this section.

(C) Penalty. Any person who shall knowingly violate this section shall, upon conviction thereof, be guilty of a misdemeanor and punished according to law.

(Ord. 95, passed 10-10-95) Penalty, see § 130.99

Cross-reference:

Nuisances; crowds obstructing streets and sidewalks, see § 91.18

Nuisances; profane or obscene language and disturbance of the peace, see § 91.17

§ 130.07 NOISE.

(A) Purpose. There has come into being within the city certain loud, avoidable, unnatural, and unnecessary noises which constitute a threat to the health, welfare, contentment, and feeling of well-being of the citizens of the city. Therefore, the City Council does declare that the doing of such things prohibited by, or not in conformity with, the terms of this section constitute an undesirable noise and shall be punished as hereinafter provided.

(B) Reservation of remedies. The provisions of this section shall be in addition to and shall not disturb either the right of the city or the right of individuals to any other remedy which might or could be available under any other law, statute, code provision, ordinance, or regulation.

(C) Specific noises prohibited. Except as provided, the following are declared to be nuisance noises in violation of this section and are prohibited.

(1) Unmuffled engines. It shall be unlawful to operate or cause to be operated any motorized vehicle unless the noise from such motorized vehicle is muffled with a muffler device sufficient to deaden such noise so that the same shall not cause annoyance to the public or disturb the rest and quiet of persons residing or occupying property near enough thereto to be annoyed thereby, and which muffler device complies with all applicable state laws and regulations.

(2) Exhausts. It shall be unlawful to discharge into the open air the exhaust of any vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom and which complies with all applicable state laws and regulations.

(3) Street noise. No person between the hours of 7:00 p.m. and 7:00 a.m. shall operate a radio, stereo, tape player, or any other audible device other than a motor vehicle engine on the highways, streets, parking lots,

alleys, sidewalks, or other public property within the city which is audible at a distance of 25 feet.

(D) Responsibility. The owner and tenant of any premises on which a violation of this section occurs shall make every reasonable effort to see that the violation ceases. Violation of this section shall be deemed the act of the person committing the act and the person in possession, control, or custody or having charge of the premises who allows or permits the violation to take place. Violation of this section shall also be deemed the act of a nonresident landlord, provided the nonresident landlord has received written notice from the city of the violation and has failed to make every reasonable effort to see that the violation ceases or does not continue to occur.

(Ord. 106, passed 8-12-97) Penalty, see § 130.99

Cross-reference:

Nuisances; noise, see § 91.18

§ 130.08 TRESPASSING.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC BUILDING. Includes all structures or areas owned and operated by any governmental or public functions including, but not limited to: schools and colleges, public and private, libraries, parks, parking lots, playgrounds, holding ponds, city, county, state and federal administrative offices.

(B) Trespass. It shall be unlawful for any person to remain in a public building or upon the grounds thereof after being requested to leave said premises by persons lawfully responsible for the control and maintenance thereof, when the continued presence of any person shall injure or endanger the safety of said public building, or unreasonably interfere with the administration thereof.

(C) Interfere with public business. It shall be unlawful for any person to willfully harass, disrupt, interfere with or obstruct any public or governmental business or approved function being conducted within or upon the premises or grounds of any public building.

(Ord. 1404, passed 11-10-14)

§ 130.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be punished as provided in § 10.99.

(B) Any person violating the provisions of § 130.02 shall upon conviction be punished by a fine not exceeding \$100 and costs of prosecution, or by imprisonment not exceeding 90 days.

(Ord. 1, passed 3-24-50)

(C) Violation of § 130.07 is subject to prosecution as a petty misdemeanor.

(Ord. 106, passed 8-12-97)

Cross-reference:

Penalty for petty misdemeanors, see § 10.99

TITLE XV: LAND USAGE

Chapter

150. GENERAL PROVISIONS

151. BUILDING REGULATIONS

152. SURFACE WATER MANAGEMENT AND STORMWATER
SYSTEMS

153. TOWERS AND WIRELESS FACILITIES

154. SUBDIVISIONS

155. ZONING

CHAPTER 150: GENERAL PROVISIONS

Section

150.01 Conveyance of land

§ 150.01 CONVEYANCE OF LAND.

(A) No conveyance of land shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat. The foregoing provisions do not apply to a conveyance if the land described:

- (1) Was a separate parcel of record as of June 14, 1977;
- (2) Was the subject of a written agreement to convey entered into prior to June 14, 1977;
- (3) Was a separate parcel of not less than 2½ acres in area and 150 feet in width on January 1, 1980;
- (4) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;
- (5) Was a single parcel of commercial or industrial land of not more than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
- (6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(B) Building permits may be withheld for buildings or tracts which have not been subdivided or conveyed pursuant to the provisions of the ordinances and code provisions of the city. The city shall have no obligation to improve, repair, or maintain any right-of-way until it is accepted by the city.

(C) Provisions of this section may be waived pursuant to the provisions of M.S. § 462.358(4)(b), as amended.

(Ord. 75, passed 9-12-90)

Cross-reference:

Subdivisions; conveyance by metes and bounds description, see § 154.020

CHAPTER 151: BUILDING REGULATIONS

Section

- 151.01 Minnesota State Building Code adopted
- 151.02 Building Code regulations
- 151.03 Gas fitting and heating, ventilation and air conditioning regulations
- 151.04 Electrical regulations
- 151.05 Violation and penalty

Cross-reference:

Culverts, see § 93.02

Nuisances; buildings, see § 91.18

Registration of Vacant Buildings, see Ch. 98

Sidewalks and curbs, see § 93.01

§ 151.01 MINNESOTA STATE BUILDING CODE ADOPTED.

(A) Adoption by reference. The Minnesota State Building Code, M.S. §§ 16B.59 through 16B.75, including all referenced amendments, rules and regulations, as the same may be amended from time to time, are hereby adopted by reference except for the optional chapters set forth therein, unless such optional chapters are otherwise specifically adopted by this chapter. The following optional provisions of the Minnesota State Building Code are hereby adopted and incorporated as part of the building code for Saint Michael: none.

(B) Application, administration and enforcement. The application, administration, and enforcement of the city's building code shall be in accordance with the Minnesota State Building Code. The enforcement agency to enforce building codes shall be the City of St. Michael by and through the certified Building Official designated by the City of St. Michael. to administer the building code, pursuant to M.S. § 16B.65, subd. 1.

(C) Permits and fees. The issuance of permits and the collection of related fees shall be as authorized in M.S. § 16B.62, subd. 1. Permit fees shall be assessed for work governed by this chapter in accordance with the fee schedule adopted by the City of St. Michael in Chapter 39 of this code. In addition, a surcharge fee shall be collected on all permits issued for work governed by this chapter, in accordance with M.S. § 16B.70.

(Ord. 119, passed 12-22-98; Am. Ord. 0201, passed 2-12-02; Am. Ord. 0304, passed 4-8-03; Am. Ord. 0702, passed 6-26-07)

§ 151.02 BUILDING CODE REGULATIONS.

(A) Raising and demolition of buildings. No buildings or structures shall be raised or demolished within the city without first applying for and securing a permit therefor from the Building Official, and paying a fee in the amount duly set by the City Council from time to time.

(B) Plans and specifications.

(1) With each application for a building permit, and when required by the Building Official for enforcement of any provisions of this code, two sets of plans and specifications shall be submitted, together with a certificate of survey of the lot upon which the proposed building or construction is to be done.

(2) All plans and specifications, except for single-family dwellings or any other buildings the total cost of which does not exceed \$30,000, or for any other building exempted by statute, shall be prepared and signed by a registered architect or a registered professional engineer duly qualified by registration as required by M.S. § 326.02.

(C) Certificate of survey. The certificate of survey shall provide the following information and be attested to by a registered land surveyor duly qualified by registration as required by M.S. § 326.02.

(1) Scale of drawing.

(2) Legal description.

(3) Dimensions of the lot and north arrow.

(4) Dimensions of front, rear and side yards.

(5) Locations of all existing buildings on the lot.

(6) Location of the proposed buildings or construction.

(7) Location of stakes established by the surveyor along each side lot line a distance of 35 feet, and 65 feet from the front lot corners. The maintenance of these stakes, once established by the surveyor, shall be the responsibility of the building permit applicant.

(8) Location and elevation of any existing foundation(s) and/or drain ways adjacent to the parcel.

(9) The location of all easements as shown on record plats.

(10) Grade elevations of the following points:

(a) Each lot corner, either existing or proposed.

(b) Crown of proposed streets at each lot line extended.

(c) Proposed lawn and driveway elevation at the street side of the building (driveway slopes shall not exceed 10% slope).

(d) Any catch basin or manhole.

(e) Any emergency overflow point.

(f) Top of foundation, garage floor, lowest floor, and lowest opening.

(g) Elevations shall be based on sea level datum, and shall be tied by the surveyor to a benchmark. The elevation shall be obtained from the developer and the approved grading plan. When there is no development grading plan, the City Engineer shall assist in establishing a benchmark elevation.

(h) An emergency spillway (emergency outlet) from ponding areas shall be installed a minimum of one foot below the lowest building opening and shall be designed to have a capacity to overflow water at an elevation below the lowest building opening at a rate of not less than three times the 100-year peak discharge rate from the basin or the anticipated 100-year peak inflow rate to the basin, whichever is higher as determined by the City of St. Michael Engineering Guidelines and the Comprehensive Storm Water Management Plan.

(i) The high water levels of the storm water ponding areas shall be based on a 100-year storm. The minimum freeboard above the established high water levels for the lowest building floor shall be two feet as determined by the City of St. Michael Engineering Guidelines.

(11) The proposed disposal or drainage of surface waters (drainage arrows shall indicate the direction of surface water).

(a) A permit is issued with the expectation that the relative elevations of the proposed lot and the established or proposed street grade shall not conflict in such a manner as to cause damage by altering the drainage or flow of surface waters to the street or nearby streets or to adjacent or nearby premises.

(b) All grades on drainage swales and driveways shall have a minimum of 2% slope.

(c) All grades shall be maximum 3:1 slope. Grades exceeding 3:1 shall require retaining walls or approved soil retention methods. When retaining walls are required, location and height shall be noted. Retaining walls in excess of four feet shall require and engineered design approved by the City Engineer.

(d) The City Building Official may deny a permit for the construction of a building or structure upon ground determined by the Building Official to be too low for proper drainage. In the course of construction, alteration, repair or moving of any building or structure, no obstruction, diversion, ridging or defining (temporary or permanent) of the existing channel or any natural waterway through or over which any lake, stream or surface water naturally flows shall be made without approval of the City Engineer or other city officials in possession of such information.

(Ord. 0201, passed 2-12-02; Am. Ord. 0702, passed 6-26-07)

§ 151.03 GAS FITTING AND HEATING, VENTILATION AND AIR CONDITIONING REGULATIONS.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GAS FITTER. Any person engaged in the business of installing, altering, repairing, testing or extending any fuel tanks, power plants, gas or oil burners, gas or oil piping, or gas appliance items or connection.

HEATING, VENTILATION AND AIR CONDITIONING. Any person engaged in the business of installing, altering and repairing all heating, ventilation and air conditioning appliance items, connections and appendages, no matter what the fuel source.

PERSON. Any individual, firm, partnership, association, corporation, limited liability company or other entity.

(B) City requirements. No person engaged in the business of gas fitter or gas fueled heating, ventilation and air conditioning within the city shall obtain a building permit from the city for each job to be performed. No such person shall be issued a building permit unless the following requirements are met:

(1) Such person has paid the city an annual processing fee in such amount as set by the City Council from time to time.

(2) Such person provides proof that a bond has been filed with the State Department of Labor and Industry as required by M.S. § 326.992.

(3) Such person files with the Building Official a certificated of insurance, issued by an insurance company licensed to do business in the State of Minnesota, evidencing that such person maintains public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of the work of such person or the work of its subcontractors or by one directly or indirectly employed by such person. The minimum limits of coverage for such insurance shall be:

(a) Each claim, at least \$100,000.

(b) Each occurrence, at least \$300,000.

(c) Property damage, at least \$100,000.

Such insurance shall be kept current and shall provide for written notification to the city at least 15 days prior to termination, cancellation or material change.

(C) No person that has been issued a building permit by the city shall allow any other person to use its permit for doing any work covered by the provisions of this chapter.

(D) A person engaged in the business of installation, alteration or repair of non-gas heating, ventilation and air conditioning appliance items, connection or appendages may be issued a building permit by the city without showing compliance with the requirements set forth in division (B) (1) and (B)(3).

(Am. Ord. 0201, passed 2-12-02; Am. Ord. 0702, passed 6-26-07)

§ 151.04 ELECTRICAL REGULATIONS.

(A) Purpose; application of this section.

(1) The purpose of this section is to implement the provisions of the Minnesota State Building Code and Minnesota Rules Chapter 1315 which adopts the National Electrical Code.

(2) The provisions of this section shall apply to all installations of electrical conductors, fittings, devices, fixtures hereinafter referred to as "electrical equipment", within or on public and private buildings and premises, with the following general exceptions. The provisions of this section do not apply to the installations in mines, ships, railway cars, aircraft, automotive equipment or the installations or equipment employed by a railway, electric or communication utility in the exercise of its functions as a utility, except as otherwise provided in this section.

(3) As used in this section, REASONABLY SAFE TO PERSONS AND PROPERTY as applied to electrical installations and electrical equipment means safe to use in the service for which the installation or equipment is intended without unnecessary hazard to life, limb or property.

(4) For purposes of interpretation of the provisions of this section, the most recently published edition of the National Electrical Code shall be prima facie evidence of the definitions and scope of words and terms used in this section.

(B) Electrical inspector, qualifications and appointment.

(1) Creation; qualifications. There is hereby created the office of Electrical Inspector.

(2) The person chosen to fill the office of Electrical Inspector shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of his or her duties and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property; the statutes of the state relating to electrical work and any orders, rules and regulations issued by authority thereof; and the National Electrical Code as approved by the American Standards Association; shall have two years' experience as an electrical inspector or five years' experience in the installation of electrical equipment, or a graduate mechanical or electrical engineer with two years of practical electrical experience.

(a) Licensed inspector. The Electrical Inspector shall be a licensed master or journeymen electrician as defined under Minnesota Statutes.

(b) Duties of the Electrical Inspector. It shall be the duty of the Inspector to enforce the provisions of this section. The Inspector shall, upon application, grant permits for the installation or alteration of electrical equipment, and shall make inspections of electrical installations, all as provided in this section. The Inspector shall keep complete records of all permits issued, inspections and reinsertions made and other official work performed in accordance with the provisions of this section.

(c) No financial interest. It shall be unlawful for the Inspector to engage in the sale, installation or maintenance of electrical equipment, directly or indirectly, and the Inspector shall have no financial interest in any concern engaged in any such business.

(d) Authority of Electrical Inspector. The Inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his or her official duties, or for the purpose of making any inspection, reinsertion or test of electrical equipment contained therein or its installation. When any electrical equipment is found by the Inspector to be dangerous to persons or property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the Inspector to place such equipment in safe condition. If such work is not completed within 15 days or any longer period that may be specified by the Inspector in the notice, the Inspector shall have the authority to disconnect or order discontinuance of electrical service to the electrical equipment. In cases of emergency where necessary for safety to persons and property, or where electrical equipment may interfere with the work of the Fire Department, the Inspector shall have the authority to disconnect or cause disconnection immediately of any electrical equipment.

(C) Standards for electrical equipment installation.

(1) All installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the provisions of this section and the applicable statutes of the state and all orders, rules and regulations issued by the authority thereof. All electrical equipment shall be listed and labeled by a testing agency.

(2) Conformity of installations of electrical equipment with applicable regulations set forth in the current National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that such installations are reasonably safe to persons and property. Noncompliance with the provisions of this section or the National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that the installation is not reasonably safe to persons and property.

(3) The Electrical Inspector may, with approval of the Building Official, authorize installations of special wiring methods other than herein provided for.

(4) Buildings or structures moved from without to within and within the limits of the city shall conform to all of the requirements of this Code for new buildings or structures.

(5) Existing buildings or structures hereafter changed in use shall conform in all respects to the requirements of this Code for the new use.

(D) Connections to installations.

(1) It shall be unlawful for any person to make connections from a supply of electricity to any electrical equipment for the installation of which a permit is required or which has been disconnected or ordered to be disconnected by the Electrical Inspector.

(2) The public or private utility providing services shall disconnect the same upon a written order from the Electrical Inspector, if the Inspector considers any electrical installation unsafe to life and property or installed contrary to this Code.

(E) Permits and inspectors.

(1) Permit required. An electrical permit is required for each installation, alteration, addition or repair of electrical work for light, heat and power within the limits of the city. Permits for the installation of electrical work in new structures shall only be issued to electrical contractors duly licensed by the state. Permits for the installation, alteration, addition or repair of electrical work in existing structures shall only be issued to electrical contractors duly licensed by the state or to resident owners of property where the work is to be done.

(2) Public service corporation exception. No permit shall be required for electrical installations of equipment owned, leased, operated or maintained by a public service corporation which is used by said corporation in the performance of its function as a utility, except that such electrical installation shall conform to the minimum standards of the National Electrical Safety Code.

(3) Ownership. Ownership of any transmission or distribution lines or appurtenances thereto, including, but not limited to, transformers, shall not be transferred by a public service corporation to any person, except another franchised public service corporation dealing in electric energy for distribution and sale, without a permit first having been issued therefore by the city. Such permit shall be issued only after the facilities to be transferred have been inspected and approved as provided in this section and upon payment of an inspection fee as set forth in this section of the section.

(4) Application and plans. Application for such permit, describing the electrical work to be done, shall be made in writing, to the city by the person so registered to do such work. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether the electrical installation as described will be in conformity with all the legal requirements. The fees for electrical inspection as set forth in this section shall accompany such application. If applicant has complied with all of the provisions of this section, a permit for such electrical installation shall be issued.

(5) Concealment. All electrical installations which involve the concealment of wiring or equipment shall have a "rough-in" inspection prior to concealment, wherein the Inspector shall be duly notified in advance, excluding Saturday, Sunday and holidays.

(6) Inspection fees.

(a) Permits required. Before commencing any installation of any work regulated by this section, a permit therefore shall be secured from the Building Department and the fee for such permit paid. The fees schedule set forth in M.S. § 326B.37 is adopted by reference and incorporated herein. No such permit shall be issued to do any of the work or make any installation regulated by this section except to persons licensed to do such work under the terms of this section. Holders of a contractor's license shall not obtain permits for electrical work unless the work is supervised by them and is performed by workers employed by them or their firm.

(b) Fees double, when. Should any person begin work of any kind, such as set forth in this section, or for which a permit from the Electrical Inspector is required by ordinance, without having secured the necessary permit therefore from the Inspector of Buildings either previous to or

during the day of the commencement of any such work, or on the next succeeding day where the work is commenced on a Saturday or on a Sunday or a holiday, he or she shall, when subsequently securing such permit, be required to pay double the fees provided for such permit.

(c) Additional fees and/or shortages. Additional fees and/or fee shortages must be received by the city within 14 days of written notice. If additional fees and/or fee shortages are not received within 14 days of notice, permits for electrical installations will not be accepted by the city until such time as the additional fees and/or fee shortages are received.

(7) Electrical inspections.

(a) At regular intervals, the Electrical Inspector shall visit all premises where work may be done under annual permits and shall inspect all electrical equipment installed under such a permit since the day of his or her last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this section, after the fee required has been paid.

(b) When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person installing the equipment shall notify the Electrical Inspector and the equipment shall not be concealed until it has been inspected and approved by the Electrical Inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of the scheduled inspection; provided, that on large installations where the concealment of equipment proceeds continuously, the person installing the electrical equipment shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.

(c) If upon inspection, the installation is not found to be fully in conformity with the provisions of this section, the Electrical Inspector shall at once forward to the person making the installation a written notice stating the defects which have been found to exist.

(Ord. 1104, passed 7-7-11)

§ 151.05 VIOLATION AND PENALTY.

A violation of any part of this chapter shall be a misdemeanor, pursuant to M.S. § 16B.69.

(Ord. 0702, passed 6-26-07)

CHAPTER 152: SURFACE WATER MANAGEMENT AND STORMWATER SYSTEMS

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SURFACE WATER MANAGEMENT GENERAL PROVISIONS

§ 152.01 PURPOSE.

The purpose of this chapter is to control or eliminate storm water pollution along with soil erosion and sedimentation within the city that would diminish threats to public health, safety, public and private property and natural resources of the community. It establishes standards and specifications for conservation practices and planning activities, which minimize storm water pollution, soil erosion and sedimentation.

(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08)

§ 152.015 FINDINGS.

(A) The city encourages the design of storm water ponds to provide an opportunity to enhance habitat and aesthetic features of the pond. This includes providing upland buffers around the ponds, seeding the area with native vegetation, and designing the slopes flatter than 3:1.

(B) The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas that may be affected by unplanned land usage.

(Ord. 0802, passed 3-11-08)

§ 152.02 SCOPE.

Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the city shall apply to the city for the approval of the storm water pollution control plan. No land shall be disturbed until the plan is approved by the city and conforms to the standards set forth herein.

(Ord. 128, passed 2-8-00)

§ 152.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “must” are always mandatory and not merely directive.

APPLICANT. Any person or entity that applies for a building permit, subdivision approval, or a permit to allow land disturbing activities. APPLICANT also means that person’s agents, employees and others acting under that person’s direction.

BEST MANAGEMENT PRACTICES. (BMP’S) Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. (Examples of BMP’s can be found in the current versions of the Minnesota Pollution Control Agency’s, “Protecting Water Quality in Urban Areas,” and the same agency’s “Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands,” the United States Environmental Protection Agency’s, “Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices,” (as a reference for BMP’s) and the Minnesota Department of Transportation’s, “Erosion Control Design Manual.”) BMP’s also include treatment practices and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal and drainage from raw materials storage.

CONTROL MEASURE. A practice or combination of practices to control erosion and attendant pollution.

DETENTION FACILITY. A permanent natural or manmade structure, including wetlands, for the temporary storage of runoff that contains a permanent pool of water.

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

DISCHARGE. The conveyance, channeling, runoff, or drainage, of storm water, including snow melt, from a construction site.

ENERGY DISSIPATION. This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to; aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

EROSION. Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of people and nature.

EROSION CONTROL. Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE. The management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by the either the city or local watershed group, whichever is more stringent.

EXPOSED SOIL AREAS. All areas of the construction site where the vegetation (including trees, shrubs, and brush) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site.

FILTER STRIPS. A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 75% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.

FLOOD FRINGE. The portion of the floodplain outside of the floodway.

FLOODWAY. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

HYDRIC SOILS. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

HYDROPHYTIC VEGETATION. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the

surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including clearing and grubbing, grading, excavating, transporting and filling of land. Land disturbance activity does not mean:

(1) Minor land disturbance activities such as home gardens and individuals home landscaping, repairs, and maintenance work.

(2) Construction, installation, and maintenance of electric, telephone, and cable television utility lines or individual service connection to these utilities, except where a minimum of 5,000 square feet of land disturbance can be anticipated.

(3) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.

(4) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

(5) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency, then the land area disturbed must be shaped and stabilized in accordance with the city's requirements.

PERMANENT COVER. "Final Stabilization." Examples include grass, gravel, asphalt, and concrete.

PAVED SURFACE. A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

REGIONAL FLOOD. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected in a 100-year flood occurrence.

RETENTION FACILITY. A permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

RUNOFF COEFFICIENT. The average annual fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls that will appear at the conveyance as runoff.

SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

SEDIMENTATION. Sedimentation means the process or action of depositing sediment caused by erosion.

SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this document stockpiles of sand, gravel, aggregate, concrete or bituminous materials are not considered "soil" stockpiles.

STABILIZED. The exposed ground surface after it has been covered by sod, erosion control blanket, rip rap, or other material that prevents erosion from occurring. Grass seed is not considered stabilization.

STORM WATER. The precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

STORM WATER POLLUTION CONTROL PLAN. A joint storm water and erosion and sediment control plan that is a document containing the requirements of §§ 152.15 through 152.24 that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution and sediment damages.

STRUCTURE. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

TEMPORARY PROTECTION. The methods employed to prevent erosion. Examples of such protect include; straw, mulch, erosion control blankets, wood chips, and erosion netting.

URBAN. Of, relating to, characteristic of, constituting a city.

VEGETATED OR GRASSED SWALES. A vegetated earthen channel that conveys storm water, while treating the storm water by biofiltration. Pollutants are removed by both filtration and infiltration.

WATERS OF THE STATE. As defined in M.S. § 115.01, subdivision 22 the term ". . . waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water,

surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.”

Commentary:

Constructed wetlands designed for wastewater treatment are not waters of the state. See the definition of “wetlands.”

WET DETENTION FACILITY. A permanent man-made structure for the temporary storage of runoff that contains a permanent pool of water.

WETLANDS. As defined in Minnesota Rules 7050.0130, subpart F “. . . wetlands" are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (1) A predominance of hydric soils;
- (2) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (3) Under normal circumstances support a prevalence of such vegetation.

Commentary:

A quick reference of what is an existing identified wetland is the National Wetlands Inventory maps distributed by the U.S. Department of the Interior’s Fish and Wildlife Service. They list most, but not necessarily all wetlands.

(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1201, passed - -)

§ 152.04 FINANCIAL SECURITIES.

(A) Securities; form of. The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the storm water pollution control plan and any storm water and pollution control plan related remedial work in an amount of \$3,000 per gross acre or \$1,000 for each single or twin family home, whichever is greater. This security must be submitted to the city prior to commencing

the project. The form of the securities must be one or a combination of the following to be determined by the city:

(1) Cash. A minimum of \$3,000 of the financial security for erosion control must be by cash deposit to the city.

(2) Bonds, instruments of credit. Deposit, either with the city, a responsible escrow agent, or trust company, at the option of the city, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment.

(B) Maintaining the financial security. If at anytime during the course of the work the cash deposit or entire deposit amount falls below 50% of the required deposits, the developer shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the developer does not bring the financial security back up to the required amount within seven days after notification by the city that the amount has fallen below 50% of the required amount the city may:

(1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy.

(2) Revoke any permit issued by the city to the applicant for the site in question or any other of the applicant's sites within the city's jurisdiction.

(C) Action against the financial security. The city may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance remedial work undertaken by the city or a private contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

(1) The developer ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.

(2) The developer fails to conform to the grading plan and/or the storm water pollution control plan as approved by the city.

(3) The techniques utilized under the storm water pollution control plan fail within one year of installation.

(4) The developer fails to reimburse the city for corrective action taken under § 152.05.

(D) Returning the financial security. The security deposited with the city for faithful performance of the storm water pollution control plan and any storm water and pollution control plan related remedial work to finance

necessary remedial work must be released one full year after the completion of the installation of all storm water pollution control measures as shown on the grading and/or the storm water pollution control plan.

(Ord. 128, passed 2-8-00)

§ 152.05 NOTIFICATION OF FAILURE OF THE STORM WATER POLLUTION CONTROL PLAN.

The city shall notify the permit holder of the failure of the storm water pollution control plan's measures.

(A) Notification by the city. The initial contact will be by phone to the parties listed on the application and/or the storm water pollution control plan. Twenty-four hours after notification by the city or 72 hours after the failure of erosion control measures, the city, at its discretion, may begin corrective work.

(B) Erosion off-site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, may more than seven calendar days go by without corrective action being taken. If in the discretion of the city, the applicant does not repair the damage caused by the erosion, the city may do the remedial work required and charge the cost to the applicant.

(C) Erosion into streets, wetlands or water bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

(D) Failure to do corrective work. When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take the following actions:

(1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy.

(2) Revoke any permit issued by the city to the applicant for the site in question or any other of the applicant's sites within the city's jurisdiction.

(3) Direct the correction of the deficiency by city forces or by a separate contract. The issuance of a permit constitutes a right-of-entry for

the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.

(4) All costs incurred by the city in correcting storm water pollution control deficiencies must be reimbursed by the applicant. If payment is not made within 30 days after costs are incurred by the city, payment will be made from the applicant's financial securities as described in § 152.04.

(5) If there is an insufficient financial amount, in the applicant's financial securities as described in § 152.04, to cover the costs incurred by the city, then the city may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S. § 429.081 to challenge the amount or validity of assessment.

(Ord. 128, passed 2-8-00; Am. Ord. 0302, passed 4-8-03)

STORM WATER POLLUTION CONTROL PLAN

§ 152.15 APPROVAL OF PLAN BY CITY REQUIRED.

Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water pollution control plan to the City Engineer. Submitted stormwater pollution control plans must meet the provisions specified in the city's Engineering Guidelines. No building permit, subdivision approval, or permit to allow land disturbing activities must be issued until the city approves this plan.

(Ord. 128, passed 2-8-00; Am. Ord. 1501, passed 1-27-15)

§ 152.16 GENERAL POLICY ON STORM WATER RUNOFF RATES.

Storm water runoff rates must not increase over the predevelopment two-year, ten-year and 100- year storm peak discharge rates as outlined in the city's Engineering Guidelines. Also accelerated channel erosion must not occur as a result of the proposed activity.

(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1501, passed 1-27-15)

§ 152.17 STORM WATER POLLUTION CONTROL PLAN.

The storm water pollution control plan must include:

(A) Project description. The nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.

(B) Phasing of construction. Time frames and schedules for the project's various aspects.

(C) A map of the existing site conditions. Existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, 100-year flood plain boundaries.

(D) Site construction plan. A site construction plan that includes the proposed land disturbing activities, stockpiles, erosion and sediment control plan, construction schedule, and the maintenance and inspection of the storm water pollution control measures.

(E) Adjacent areas. Neighboring streams, lakes, residential areas, roads, etc., which might be affected by the land disturbing activity.

(F) Erosion potential. Designate the site's areas with the potential for serious erosion problems.

(G) Erosion and sediment control measures. The methods that will be used to control erosion and sedimentation on the site, both during and after the construction process.

(H) Permanent stabilization. How the site will be stabilized after construction is completed, including specifications, time frames or schedule.

(I) Calculations. Any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones and other applicable practices.

(Ord. 128, passed 2-8-00)

§ 152.18 STORM WATER POLLUTION CONTROL PLAN CRITERIA.

Plans must follow the requirements stated within the city's Engineering Guidelines. The plan must address the following:

(A) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule.

(B) Establishing permanent vegetation and the related time frame or schedule.

(C) Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitats.)

(D) Scheduling for erosion and sediment control practices.

(E) Where permanent and temporary sedimentation basins will be located.

(F) Engineering the construction and stabilization of steep slopes.

(G) Measures that will control the quality and quantity of storm water leaving a site.

(H) Stabilizing all waterways and outlets.

(I) Protecting storm sewers from the entrance of sediment.

(J) What precautions will be taken to contain sediment when working in or crossing water bodies

(K) Restabilizing utility construction areas as soon as possible.

(L) Protecting paved roads from sediment and mud brought in from access routes.

(M) Disposing of temporary erosion and sediment control measures.

(N) How the temporary and permanent erosion and sediment control practices will be maintained.

(O) How collected sediment and floating debris will be disposed of.

(P) Modification of plan. The applicant must amend the erosion and sediment control plan as necessary to include additional requirements such as additional or modified best management practices designed to correct problems identified or address situations wherever:

(1) A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.

(2) Inspections indicate the plan is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.

(3) The plan is not achieving the general objectives of controlling pollutants or is not consistent with the terms and conditions of this permit.

(Ord. 128, passed 2-8-00; Am. Ord. 1501, passed 1-27-15)

§ 152.19 MINIMUM STORM WATER POLLUTION CONTROL MEASURES AND RELATED INSPECTIONS.

These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer. The city will determine what action is necessary to prevent excessive erosion from occurring on the site. All stormwater pollution control measures must be in compliance with the city's Engineering Guidelines.

(Ord. 128, passed 2-8-00; Am. Ord. 1501, passed 1-27-15)

§ 152.20 PERMANENT STORM WATER POLLUTION CONTROLS.

(A) The applicant shall install or construct, or pay the city fees for all storm water management facilities necessary to manage increased runoff, so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development must not be increased. Also accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(B) Infiltration of treated stormwater is required whenever new development results in an increase in the stormwater runoff volume and when redevelopment maintains or increases the stormwater runoff volume provided that past and existing land use practices do not have limitations and restrictions as described in the city's Engineering Guidelines.

(C) The city will require new development to infiltrate storm water runoff in all areas except where either there are limitations or restrictions as described in the city's Engineering Guidelines. For projects that use infiltration, the following policies apply:

(1) Pretreatment of storm water to NURP guidelines will be required prior to discharge to an infiltration basin.

(2) The infiltration basin will be sized to infiltrate the runoff from the impervious surface area as required in the city's Engineering Guidelines.

(3) Infiltration rates of the soil shall adhere to the city's Engineering Guidelines:

Hydrologic Soil Group

- A
- B
- C
- D

(D) The applicant shall consider reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

Commentary:

The sensitivity of a wetland to degradation varies with the type of vegetation. Sedge meadows, open bogs and swamps, coniferous bogs, calcareous fens, low prairies, lowland hardwood swamps, and seasonally flooded basins are highly sensitive to degradation, while flood plain forests, reed canary grass meadows, shallow (reed canary grass, cattail, giant reed or purple loosestrife) marshes are only slightly sensitive to degradation. See the current version of the Minnesota Pollution Control Agency's publication "Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands" for details.

(E) The following storm water management practices must be investigated in developing the storm water management part of the storm water pollution control plan in the following descending order of preference:

(1) Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches to promote the infiltration of water;

(2) Flow attenuation by use of open vegetated swales and natural depressions;

(3) Storm water wet detention facilities; and

(4) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (A) above.

(5) The applicant shall provide justification for the method selected.
(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1501, passed 1-27-15)

§ 152.21 MINIMUM DESIGN STANDARDS FOR STORM WATER TREATMENT PRACTICES.

These facilities must conform to city's Engineering Guidelines for permanent stormwater facilities as well as the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Minnesota Stormwater Manual" and the current requirements found in the same agency's NPDES permits for storm water associated with construction activities.

(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1501, passed 1-27-15)

§ 152.22 PROTECTION FOR NATURAL WETLANDS.

(A) All land disturbance activities on property with wetlands must follow § 155.341 of the City of St. Michael Zoning Ordinance (Wetland System District).

(B) Runoff must not be discharged directly into wetlands without appropriate quality and quantity runoff control, depending on the individual wetland's vegetation. See the current version of the Minnesota Pollution Control Agency's publication, Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands for guidance.

Commentary:

The sensitivity of a wetland to degradation varies with vegetation type. Sedge meadows, open bogs and swamps, coniferous bogs, calcareous fens, low prairies, lowland hardwood swamps, and seasonally flooded basins are highly sensitive to degradation, while flood plain forests, reed canary grass meadows, shallow reed canary grass, cattail, giant reed or purple loosestrife) marshes are only slightly sensitive to degradation.

(Ord. 128, passed 2-8-00)

§ 152.23 MODELS/METHODOLOGIES/COMPUTATIONS.

Hydrologic models and design methodologies used for the determining runoff characteristics and analyzing storm water management structures must be approved by the City Engineer. Plans, specifications and computations for storm water management facilities submitted for review must be sealed and signed by a registered professional engineer. All computations must appear on the plans submitted for review, unless otherwise approved by the City Engineer.

(Ord. 128, passed 2-8-00)

§ 152.24 VARIANCE.

Where in the judgment of a registered professional engineer, experienced in the field of storm water and erosion and sediment control, site conditions warrant or where the practices or practice standards will be insufficient to control erosion and sedimentation for a land disturbance activity, the City Engineer may grant a variance on a case-by-case basis. The content of a variance must be specific, and must not affect other approved provisions of a plan.

(A) The variance request must be in writing.

(B) The variance must be in writing and include the reason for granting the variance.

(Ord. 128, passed 2-8-00)

ADMINISTRATION AND ENFORCEMENT

§ 152.40 REVIEW.

(A) The City Engineer shall review the storm water pollution control plan. This review must be completed within 14 days of receiving the plan from the developer.

(B) If the city determines that the storm water pollution control plan meets the requirements of this chapter, the city shall issue a permit valid for a specified period of time, that authorizes the land disturbance activity contingent on the implementation and completion of this plan.

(C) If the city determines that the storm water pollution control plan does not meet the requirements of this chapter, the city shall not issue a permit for the land disturbance activity. This plan must be resubmitted for approval before the land disturbance activity begins.

(D) All land use and building permits must be suspended until the developer has an approved storm water pollution control plan.

(Ord. 128, passed 2-8-00)

§ 152.41 MODIFICATION OF PLAN.

An approved storm water pollution control plan may be modified on submission of an application for modification to the city, and after approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

(Ord. 128, passed 2-8-00)

§ 152.42 ENFORCEMENT.

(A) The city shall be responsible enforcing this chapter.

(B) The city will work with the MPCA to develop Total Maximum Daily Load (TDML) plans for on the listed impaired waters in the city.

(Ord. 128, passed 2-8-00; Am. Ord. 0802, passed 3-11-08)

§ 152.43 RIGHT OF ENTRY AND INSPECTION.

The applicant shall allow the city and their authorized representatives, upon presentation of credentials:

(A) To enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, surveys or investigations.

(B) To bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.

(C) To examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.

(D) To inspect the storm water pollution control measures required in this permit.

(E) To sample and monitor any items or activities pertaining to permits issued by the city.

(Ord. 128, passed 2-8-00)

STORM WATER UTILITY AND DRAINAGE FEES

§ 152.70 STORM WATER UTILITY ESTABLISHMENT.

A municipal storm water utility is hereby established and shall be operated as a public utility pursuant to M.S. § 444.075, as it may be amended from time to time, from which revenues will be derived subject to the provisions of this chapter and Minnesota Statutes.

(Ord. 0316, passed 12-9-03)

§ 152.71 DEFINITIONS.

(A) Rates and charges for the use and availability of the utility system shall be determined through the use of a residential equivalent factor (REF) defined as the ratio of the average volume of run off generated by an average residential unit.

(B) The charge to an average residential unit shall be the storm water utility rate.

(Ord. 0316, passed 12-9-03)

§ 152.72 STORM WATER UTILITY DRAINAGE FEES.

Storm water utility fees are drainage fees for parcels of land and shall be determined by multiplying the REF for the parcel's land use classification by the parcel's acreage and then multiplying the resulting product by storm water utility rate. The REF values for various land uses are as follows:

Land Use	REF
Residential (Single-Family, Duplex, Townhome)	1
Commercial/Industrial/Institutional/Golf Course/ Condos/Apartments—	
One Acre or Less	2
One to Five Acres	4
More than Five Acres	6

(Ord. 0316, passed 12-9-03)

§ 152.73 STORM WATER UTILITY RATE.

The storm water utility rate charge, as set by City Council resolution from time to time, shall become effective on January 1, 2004, and shall be charged to all parcels not listed as exempt in § 152.74.

(Ord. 0316, passed 12-9-03)

§ 152.74 EXEMPTIONS.

The following land uses are exempt from storm water utility fees:

(A) A-1 Zoned Agricultural Land; except for properties less than ten acres unless the owner thereof provides documented proof that the property is in use as an active agricultural farmland/farmstead and that the tax classification is registered as agricultural farmland/farmstead by Wright County;

(B) Public Rights-of-Way;

(C) Railroad Rights-of-Way;

(D) State Owned Property;

(E) Vacant Land (such as Undeveloped Land);

(F) Unoccupied Public Land (such as Open Space, Parks).

(Ord. 0316, passed 12-9-03; Am. Ord. 1401, passed 1-28-14)

§ 152.75 OTHER LAND USAGE.

The storm water utility fee applicable to land uses not specifically listed in §§ 154.72 and 154.74 shall be determined by the City Engineer based on comparable amounts of impervious coverage and parcel size. An appeal of such determination by the City Engineer may be made to the City Council.

(Ord. 0316, passed 12-9-03)

§ 152.76 CREDITS.

(A) The City Engineer may adjust the REF for parcels of land (other than Residential (Single- Family, Duplex, Townhome) if the City Engineer determines that the impervious surface of the land is substantially different from the REF being used for comparable parcels. Information and

hydrologic data must be supplied by the property owner(s) to demonstrate that a fee adjustment is warranted. Adjustments to an individual REF shall not be made retroactively. Appeals of the City Engineer's determination shall be made to the City Council.

(B) The Council may adopt, from time to time, by resolution an incentive or credit program which would allow for the reduction of storm water utility fees for individual parcels of land. The maximum reduction for any parcel shall be 20%.

(Ord. 0316, passed 12-9-03)

§ 152.77 BILLING AND PAYMENT.

Storm water utility fees shall be computed and billed periodically along with the utility bill for other utility services such as water and sanitary sewer. If a parcel of land subject to the storm water utility fee is not served by other utilities, a separate bill shall be issued quarterly by the city. Each billing for storm water utility fees which is not paid when due shall incur a penalty charge in an amount as adopted in the annual fee schedule. If storm water utility fees are not paid within three months after billing is issued, the city shall certify the amount due, together with penalties, to the County Auditor to be collected with other real estate taxes on the parcel.

(Ord. 0316, passed 12-9-03; Am. Ord. 1401, passed 1-28-14)

§ 152.78 ESTABLISHMENT OF FUND.

All fees collected for the storm water utility shall be placed in a fund for storm water purposes as permitted by M.S. § 444.075, as it may be amended from time to time.

(Ord. 0316, passed 12-9-03)

ILLICIT DISCHARGE AND CONNECTION TO THE CITY'S STORMWATER SYSTEM

§ 152.80 PURPOSE AND INTENT.

(A) The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter

establishes methods for controlling the introduction of pollutants into the storm drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(B) The objectives of this subchapter are:

(1) To regulate the contribution of pollutants to the storm drainage system by stormwater discharges by any user.

(2) To prohibit illicit connections and discharges to the storm drainage system.

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.

(Ord. 1201, passed 12-11-12)

§ 152.81 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of St. Michael.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the MS4, except as exempted in this section.

ILLICIT CONNECTIONS. Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the MS4 including but not limited to any conveyance that allows any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4 and any connection to the MS4 from an indoor drain or sink, regardless of whether the drain, sink or connection had been previously

allowed, permitted, or approved by the city or, any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by the city.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 CFR, § 122.26(b)(14).

MS4. Municipal separate storm sewer system, also known as and referred to as a storm drain system or a storm drainage system.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by MPCA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity.

POLLUTANT. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, pesticides, herbicides, and fertilizers; hazardous substances and wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment, or that may degrade, impair or pollute ground or surface waters.

POLLUTION. Contaminating the soil, water or air with noxious substances.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

STORM DRAIN SYSTEM. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN. A document that describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from any premises.

(Ord. 1201, passed 12-11-12)

§ 152.82 APPLICABILITY.

This subchapter shall apply to all water entering the storm drain system generated on any premises unless explicitly exempted by the city.

(Ord. 1201, passed 12-11-12)

§ 152.83 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement, and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the city may be delegated in writing by the City Administrator to persons or entities acting in the beneficial interest of or in the employ of the city.

(Ord. 1201, passed 12-11-12)

§ 152.84 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore these sections do not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Ord. 1201, passed 12-11-12)

§ 152.85 DISCHARGE PROHIBITIONS.

(A) Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except as described as follows:

(1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated to less than 0.1 PPM chlorine), fire-fighting activities, any other water source not containing pollutants, and the use of fertilizers, herbicides and pesticides for agricultural or landscaping purposes when applied for their intended purpose in accordance with label directions and in compliance with all applicable local, state and federal ordinances, laws and regulations.

(2) Discharges specified in writing by city as being necessary to protect public health and safety.

(3) Dye testing if verbal notification is given to the city prior to the time of the test.

(4) Any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that prior written approval has been granted by the city for any discharge to the storm drain system.

(B) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of an illicit connection to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, a connection made prior to the enactment of this section, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.

(3) A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. 1201, passed 12-11-12)

§ 152.86 SUSPENSION OF MS4 ACCESS.

(A) Suspension due to an illicit discharge in an emergency situation. The City Council or City Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that, in the determination of the City Engineer, presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as it deems necessary to prevent or minimize damage to the MS4 or waters of the United States, or if determined by the City Engineer to be necessary to minimize danger to persons.

(B) Suspension due to the detection of an illicit discharge. Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if the City Engineer determines that such termination would abate or reduce an illicit discharge. The city will notify the responsible person of the proposed termination of its MS4 access. The responsible person may petition the city for reconsideration and a hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior written approval of the city.

(Ord. 1201, passed 12-11-12)

§ 152.87 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the City Council prior to the allowing of a discharge to the MS4.

(Ord. 1201, passed 12-11-12)

§ 152.88 MONITORING OF DISCHARGES.

(A) Applicability. This section applies to all premises that have storm water discharges associated with industrial activity, including construction activity.

(B) Access to premises.

(1) The city shall be permitted to enter and inspect premises subject to regulation under this subchapter as often as may be necessary to determine compliance therewith. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow unimpeded access to representatives of the city.

(2) A person responsible for a discharge shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The city shall have the right to install upon any premises such devices as are determined by the city to be necessary to conduct monitoring and/or sampling of storm water discharge from the premises.

(4) The city may require the person responsible for a discharge to install monitoring equipment upon the premises as determined by the city to be necessary to conduct monitoring or sampling of storm water discharge from the premises. Such sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.

(5) Any temporary or permanent obstruction to safe and unimpeded access to the premises to be inspected and/or sampled shall be promptly removed by the person responsible for the premises promptly upon written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the person responsible for the premises.

(6) Unreasonable delays in allowing the city access to the premises is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of the premises with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the city reasonable access to the premises for the purpose of conducting any activity authorized or required by this subchapter.

(7) If the city has been refused access to any part of the premises from which stormwater is discharged, and the city has probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek the issuance of a search warrant from any court of competent jurisdiction.

(Ord. 1201, passed 12-11-12)

§ 152.89 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The city will adopt requirements identifying best management practices (BMPs) of any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment operated upon a premises shall provide, at the owner's or operator's expense, reasonable protection from accidental discharge of pollutants into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this subchapter. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 1201, passed 12-11-12)

§ 152.90 WATERCOURSE PROTECTION.

Every person owning premises through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the premises free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 1201, passed 12-11-12)

§ 152.91 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a premises has information of any known or suspected release of hazardous materials that are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to

ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify the city of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the notice given in person or by phone. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 1201, passed 12-11-12)

§ 152.92 NOTICE OF VIOLATION.

Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the city may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (A) The performance of monitoring, analysis, and reporting;
- (B) The elimination of illicit connections or discharges;
- (C) That violating discharges, practices, or operations shall cease and desist;
- (D) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (E) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- (F) The notice shall state that the determination of violation may be appealed to the City Administrator by filing with the City Clerk a written notice of appeal within seven calendar days of service of the notice of violation.

(Ord. 1201, passed 12-11-12)

§ 152.93 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a notice of violation may appeal the determination of the city by filing a notice of appeal with the City Clerk not later than seven calendar days from the date of the notice of violation. A hearing on the appeal shall take place before the City Administrator or the City Administrator's designee not later than seven calendar days from the date of the City Clerk's receipt of the notice of appeal. The decision of the City Administrator or City Administrator's designee shall be final.

(Ord. 1201, passed 12-11-12)

§ 152.94 ENFORCEMENT AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days of the decision on the appeal, then representatives of the city may enter upon the subject premises and may take any and all measures determined by the city to be necessary to abate the violation and/or restore the premises. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or the city's designated contractor to enter upon the premises for the purposes set forth herein.

(Ord. 1201, passed 12-11-12)

§ 152.95 COST OF ABATEMENT OF THE VIOLATION/ASSESSMENT.

Within 30 days after abatement of the violation, the owner of the premises shall be notified of the cost of abatement, including administrative costs. If the amount due is not paid within 30 days after the owner has been notified by the city of the amount due, the city may levy the charges as a special assessment against the premises, which assessments shall constitute a lien on the premises for the amount of the assessment.

(Ord. 1201, passed 12-11-12; Am. Ord. 1904, passed 10-22-19)

§ 152.96 LEGAL ACTION.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated and continues to violate the provisions of this subchapter, the city may seek a preliminary or permanent injunction restraining the person from activities which would create any further violation or compelling the person

to perform abatement or remediation of the violation, or seek any other available remedy in law or equity. Any person violating any provision or failing to comply with any of the requirements of this subchapter shall be personally liable for all costs and expenses, including attorney's fees, incurred by the city in enforcing this subchapter.

(Ord. 1201, passed 12-11-12)

§ 152.97 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be summarily abated at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. 1201, passed 12-11-12)

§ 152.99 PENALTY.

Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and shall be punished as provided in § 10.99. All land use and building permits must be suspended until the developer has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

(Ord. 128, passed 2-8-00)

CHAPTER 153: TOWERS AND WIRELESS FACILITIES

Section

- 153.01 Title and purpose
- 153.02 Enforcement
- 153.03 Definitions
- 153.04 Application procedures and approval process
- 153.05 Location and design requirements
- 153.06 Prohibitions
- 153.07 District provisions
- 153.08 Nonconforming antennas and towers

153.99 Penalty

§ 153.01 TITLE AND PURPOSE.

(A) This chapter shall officially be known, cited and referred to as the City of St. Michael Tower and Wireless Facility Ordinance.

(B) In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(2) Minimize adverse visual effects of towers through careful design and siting standards;

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and,

(4) Maximize and encourage the use of buildings and existing or approved towers to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and minimize their visual impact.

(Ord. 127, passed 10-12-99)

§ 153.02 ENFORCEMENT.

The enforcement of these regulations shall be the responsibility of the Zoning Administrator.

(Ord. 127, passed 10-12-99)

§ 153.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

ANTENNA HEIGHT. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

CO-LOCATION. Locating wireless communications equipment from more than one provider on a single site.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

COMMUNICATION TOWER. A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

GUYED TOWER. A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

LATTICE TOWER. A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

MICROWAVE. Electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

MONOPOLE TOWER. A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

PREEXISTING TOWERS AND ANTENNAS. Any tower or antenna previously approved prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

PROTECTED RESIDENTIAL PROPERTY. Any property within the city that meets all of the following requirements: The property is zoned R-1, R-2, R-3, or R-4 and the property may or may not also have a Planned Unit Development (PUD) Overlay classification; the property is designated on the Comprehensive Plan as Low-Density Residential, Medium-Density Residential, High-Density Residential or Residential PUD; and the property is used or subdivided for use as residential.

PUBLIC UTILITY. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the

general public. For the purpose of this chapter, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

SELF-SUPPORT TOWER. A communication tower that is constructed without guy wires and ground anchors.

TEMPORARY WIRELESS COMMUNICATION FACILITY. Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, for an emergency or for a special event.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

TOWER, MULTI-USER. A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

TOWER, SINGLE-USER. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this code.

WHIP ANTENNA. An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 inches in height. Also called omnidirectional, stick or pipe antennas.

(Ord. 127, passed 10-12-99; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1401, passed 1-28-14)

§ 153.04 APPLICATION PROCEDURES AND APPROVAL PROCESS.

(A) All towers in excess of 35 feet may be allowed following the issuance of a conditional use permit if the conditions of this code are met. The process for a conditional use permit is detailed in § 155.440 of the Zoning Ordinance. The addition of a new antenna on an existing tower or building may be allowed by permit by the Zoning Administrator if the conditions of this code are met.

(B) In addition to the information required above, development applications for wireless communications facilities shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which describes the tower height and design including a cross section and

elevation, documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; describes the tower's capacity, including the number and type of antennas that it can accommodate; documents what steps the applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; and, includes other information necessary to evaluate the request.

(2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(3) Before the issuance of a building permit, the following supplemental information shall be submitted: proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and, a report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the city's structural and electrical standards.

(C) In addition to the site plan requirements found elsewhere in the Zoning Ordinance, site plans for wireless communications facilities shall include the following supplemental information:

(1) Location and approximate size and height of all buildings and structures within 500 feet adjacent to the proposed wireless communication facility.

(2) Site plan of entire development, indicating all improvements including landscaping and screening.

(3) Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.

(4) Plans shall be drawn at a scale of not less than one inch to 100 feet.

(D) Generally, approval of a wireless communications facility can be achieved if the following items are met:

(1) The location of the proposed tower is compatible with the Comprehensive Plan and Zoning Ordinance.

(2) There exists no city-owned sites or buildings, including schools, water towers, libraries, and parks, that can reasonably serve the needs of the owner of the proposed new facility/tower.

(3) There is no other existing or proposed facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.

(4) All efforts to locate on an existing tower have not been successful or legally/physically possible.

(5) The submitted site plan complies with the performance criteria set in these regulations.

(6) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

(7) The lowest six feet of the facility/tower be visually screened by a combination of trees, large shrubs, solid walls, fences, nearby buildings or natural topography.

(8) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

(9) The owner of the wireless communication facility has agreed to permit other persons/cellular providers to attach cellular antenna or other communications apparatus which do not interfere with the primary purpose of the facility.

(10) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, and guy-wire supports.

(11) The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located.

(12) The facility/tower is in compliance with any other applicable local, state, or federal regulations.

(Ord. 127, passed 10-12-99)

§ 153.05 LOCATION AND DESIGN REQUIREMENTS.

(A) Co-location requirements. All commercial wireless telecommunication towers erected, constructed, or located within the city shall comply with the following requirements:

(1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on a city-owned or public building or property or on an existing or approved tower or building within a one half mile search radius of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable or like antennas for at least three additional users if the tower is 101-150 feet in height, for at least two additional users if the tower is 60-100 feet in height, or for at least one additional user if the tower is less than 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(B) Tower and design requirements. Proposed or modified towers and antennas shall meet the following design requirements:

(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment.

(C) Tower construction requirements. All towers erected, constructed, or located within the city, and all wiring therefor, shall comply with the requirements set forth in the City's Building Code.

(D) Tower setbacks. Towers shall conform to each of the following minimum setback requirements in addition to the district requirements established in § 153.07 of this chapter:

(1) Towers, at a minimum, shall meet the setbacks of the underlying zoning district.

(2) Towers shall be set back from the planned public rights of way. All guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements.

(3) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

(4) A tower's setback may be reduced at the sole discretion of the City Council, if a report from a qualified and licensed professional engineer demonstrates that the design of the tower will not allow the tower to physically damage adjoining properties.

(5) Towers erected on any protected residential parcel as defined in § 153.03 of this chapter are also subject to the setback provisions of this chapter.

(E) Tower height. All proposed towers shall meet the height restrictions set forth in § 153.07 of this chapter.

(F) Tower lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(G) Signs and advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(H) Accessory utility buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(I) Abandoned or unused towers or portions of towers. Abandoned or unused towers or portions of towers shall be removed as follows:

(1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the

relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.

(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

(J) Antennas mounted on roofs, walls, and existing towers. The placement of wireless telecommunication antennas on roofs, walls, and existing towers are preferred to erecting new towers and may be approved by the Zoning Administrator, provided the antennas meet the requirements of this code, after submittal of a final site and building plan as specified by § 153.04(C) of this code, and a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

(K) Interference with public safety telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.

(Ord. 127, passed 10-12-99)

§ 153.06 PROHIBITIONS.

(A) No tower shall be over 150 feet in height or within one mile of another tower regardless of municipal/township boundaries.

(B) A proposal for a new wireless service tower shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed tower cannot be accommodated:

(1) On an existing tower or structure, or

(2) On a tower that has already been permitted (even though it might not yet be constructed)

(3) On a tower whose application is currently pending before the city.

(C) No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to 24 hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of 30 days. These limits can be extended by the Zoning Administrator.

(D) Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.

(Ord. 127, passed 10-12-99; Am. Ord. 0204, passed 8-13-02) Penalty, see § 153.99

§ 153.07 DISTRICT PROVISIONS.

(A) Commercial wireless facility standards. Antennas and towers are regulated differently depending on the zoning district in which that property is located. Antennas and towers supporting commercial antennas conforming to all applicable provisions of this code shall be allowed by a conditional use permit as described in the following districts:

(1) All districts. Antennas attached to water towers are not restricted by height requirements, provided that the antennas blend into and do not extend more than 20 feet above the height of the water tower structure.

(2) General Agriculture (A-1). The maximum height of any tower, including all antennas and other attachments, shall not exceed two feet for each foot the tower is setback from the property line, up to a maximum height of 150 feet.

(3) Residential Districts (R-1, R-2, R-3, & R-4).

(a) Towers shall only be allowed with a conditional use permit in the following residentially zoned locations unless no sites exist that can reasonably serve the needs of the owner of the proposed new facility/tower:

1. Church sites, when camouflaged as steeples or bell towers;
2. Park sites, when compatible with the nature of the park; and,
3. Government, school, utility, and institutional sites.

(b) In all protected residential property the maximum height of any tower, including all antennas and other attachments, shall be 35 feet. In all residential zoning districts other than protected residential property, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot for each foot the tower is setback from the property line, up to a maximum height of 150 feet.

(4) Commercial (B-1 & B-2). The maximum height of any tower, including all antennas and other attachments, shall not exceed 150 feet in height. A tower must be setback from a residentially zoned property a minimum of one foot for each one foot of height.

(5) General Industry (I-1). The maximum height of any tower, including all antennas and other attachments, shall not exceed 150 feet in height. A tower must be setback from a residentially zoned property a minimum of one foot for each one foot of height.

(B) Antennas mounted on roofs and walls. Antennas may be attached to an existing building's roof or wall if it meets the provisions of this chapter and the following conditions:

(1) The antenna meets the height restrictions of the relevant district.

(2) The antenna does not extend more than ten feet above the highest point of the structure.

(C) Non-commercial wireless facility (amateur radio antenna) standards. Towers supporting amateur radio antennas and conforming to all applicable provisions of these regulations shall be allowed only in the rear yard of residentially zoned parcels. In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the purpose of supporting amateur radio antennas may exceed 35 feet in height provided that a determination is made by the Zoning Administrator that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

(Ord. 127, passed 10-12-99; Am. Ord. 1401, passed 1-28-14)

§ 153.08 NONCONFORMING ANTENNAS AND TOWERS.

All legal nonconforming antennas and towers may remain subject to the following:

(A) The antennas and towers may not be moved to a new location.

(B) Any antenna or tower which is located in a place which constitutes a hazard to either persons or property shall not be allowed to remain and shall be removed upon order of the City Council. The cost of removing any

such antenna/tower shall be the responsibility of the owner of the property upon which the hazardous antenna/tower is located.

(C) A legal, non-conforming antenna/tower which is modified, enlarged or changed, except for routine and minor repairs shall be brought into compliance with this chapter.

(Ord. 127, passed 10-12-99)

§ 153.99 PENALTY.

A violation of this chapter shall be a misdemeanor, punishable in accordance with § 10.99. Each day that a violation is permitted is considered a separate offense. In addition, the city may seek injunctive relief in the Wright County District Court to require conformance with this chapter. All costs and reasonable attorneys fees incurred by the city in enforcing the provisions of this chapter shall be paid by the violator of this chapter.

(Ord. 127, passed 10-12-99)

CHAPTER 154: SUBDIVISIONS

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Cross-reference:

Planned unit developments, zoning regulations, see § 155.465 et seq.

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GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known as the "Subdivision Ordinance of the City of St. Michael," and will be referred to herein as "this chapter."

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.002 PURPOSE.

In order to safeguard the best interests of the city and to assist the subdivider in harmonizing his or her interests with those of the city at large, the following regulations are adopted so that the adherence to same will bring results beneficial to both parties. It is the purpose of this chapter to make certain regulations and requirements for the subdivision or platting of land within the city pursuant to the authority contained in Minnesota Statutes, which regulations the City Council deems necessary for the health, safety, and general welfare of this community.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.003 EFFECT OF PROVISIONS ON OTHER PERMITS AND AGREEMENTS.

(A) Building permits. No building permits shall be considered for issuance by the city for the construction of any building, structure, or improvement to the land or to any lot in a subdivision as defined herein until all requirements of this chapter have been fully complied with.

(B) Private agreements. This chapter is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements on an easement, covenant, or other private agreement, the requirements of this chapter shall govern.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.004 INTERPRETATION.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance, code provision, or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or code provision, or regulation impose greater restrictions than this chapter, the provisions of the statute, other ordinance or code provision, or regulation shall be controlling.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.005 DEFINITIONS.

(A) Rules of interpretation. For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "lot" shall include the word "plat"; and the word "shall" is mandatory and not discretionary.

(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except for those words and phrases defined below, the words and phrases used in this chapter shall be interpreted to be given the meaning in common usage, so as to give this chapter its most reasonable application.

(1) General definitions.

ALLEY. A public right-of-way which affords secondary access to abutting property.

APPLICANT. The owner, the owner's agent, or any other person having legal control, ownership, and/or interest in the land proposed to be subdivided.

BLOCK. That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

BOULEVARD. The portion of a street right-of-way not occupied by pavement.

BOXES. All mailboxes, newspaper boxes, and advertising boxes wherein either mail is distributed, newspapers and magazines are distributed, or advertising is placed for the use of residents of the city.

BUILDING. A structure having a roof supported by columns or walls. When separated by division walls without openings, each portion of the building shall be deemed a separate building.

CERTIFICATE OF SURVEY. A document prepared by a registered engineer or registered land surveyor which precisely describes the area, dimensions, and location of a parcel or parcels of land.

CITY. The City of St. Michael.

CITY ATTORNEY. The attorney employed or retained by the city, unless otherwise stated.

CITY COUNCIL. The governing body of the City of St. Michael.

CITY ENGINEER. The engineer employed or retained by the city, unless otherwise stated.

CITY PLANNER. The planner employed or retained by the city, unless otherwise stated.

COMPREHENSIVE PLAN. A Comprehensive Plan prepared and approved by the city including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating various functional classes of land use, places, and structures, and for the general development of the city, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

COUNTY. Wright County, Minnesota.

CROSSWALK. A right-of-way owned by the city or another governmental entity which furnishes access for pedestrians across a street to adjacent streets or properties.

DESIGN STANDARDS. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum, minimum, or maximum dimensions of such items as rights-of-way, blocks, easements, and lots.

DEVELOPMENT AGREEMENT. A written contract between city and applicant, drafted by the City Attorney in conjunction with the approval by city of a subdivision.

DEVELOPMENT RIGHTS. The number of individual dwelling units that can be located on a parcel of land as established through the City Zoning Ordinance and Comprehensive Plan.

EASEMENT. A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives, utilities, and the like, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewers or storm drainageways, gas lines, sidewalks and trails.

FINAL PLAT. A drawing or map of a subdivision meeting all of the requirements of the city and in such form as required by Wright County for the purpose of recording.

FRONTAGE ROAD. (See Street; Marginal Access Street)

IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, trail, pedestrian way, landscaping, lighting, off-street parking area, grading, utility, lot improvement, or other similar facility.

PRIVATE IMPROVEMENT. Any improvement for which the city does not assume ownership or the responsibility for maintenance and operation, but which instead is owned, maintained and operated by a private property owner or group of private property owners.

PUBLIC IMPROVEMENT. Any improvement for which the city may ultimately assume the ownership and responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or any other sewage treatment device.

INSPECTOR. An authorized representative of the City Council assigned to make any or all necessary inspections of the work performed and materials furnished by a developer.

JOINT POWERS WATER BOARD. The governing water utility of the City of St. Michael.

LOT. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

BASE LOT. A lot meeting all the specifications within its zoning district prior to being divided into a two-family or quadraminium subdivision.

CORNER LOT. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135°.

DOUBLE FRONTAGE LOT. An interior lot having frontage on two streets.

LOT DEPTH. The shortest horizontal distance between the front and rear lines measured from a 90° angle from the street right-of-way within the lot boundaries.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

LOT OF RECORD. Any lot which is part of a subdivision the plat of which has been recorded in the County Recorder's office, or a lot described by metes and bounds the deed to which has been recorded in the County Recorder's office, at the time this chapter becomes effective.

LOT WIDTH. The shortest horizontal distance between the side property lines measured at right angles to the lot depth measured at the required minimum building setback line.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of the section, lot, or area by described lines or portions thereof.

NATURAL WATERWAY. A natural passageway on the surface of the earth so situated and having such a topographical natural nature that surface water flows through.

OUTLOT. A lot remnant or parcel of land left over after platting which is intended as open space or other use and for which no building permit shall be issued.

OWNER. An individual, association, syndicate, partnership, corporation, trust, or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

PARCEL. An individual lot or tract of land.

PARKS. Public land and open spaces in the city dedicated or reserved for recreation purposes. (See also Playgrounds)

PEDESTRIAN WAY. A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

PERSON. Any individual or legal entity.

PLANNING COMMISSION. The St. Michael Planning Commission.

PLAYGROUNDS. Public land and open spaces in the city dedicated or reserved for recreation purposes. (See also Parks)

PRELIMINARY PLAT. A detailed drawing or map of a proposed subdivision meeting the requirements herein enumerated, and submitted to the Planning Commission and governing body for their consideration in compliance with the Comprehensive Plan, along with the required supporting data.

PROTECTIVE COVENANTS. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

QUADRAMINIUM. A single structure which contains four subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

RIGHT-OF-WAY. Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, a trail, a railroad, utility lines, an oil or gas pipeline, a water line, a sanitary sewer, a storm sewer, or other similar uses.

ROADWAY. The portion of a street right-of-way improved for vehicular travel.

SETBACK. The minimum horizontal distance between a building and a street, lot line, ordinary high water mark, or bluff line. Distances are to be

measured from the most outwardly extended portion of the structure at ground level.

SKETCH PLAN. A drawing showing the proposed subdivision of property. This plan shall be drawn to scale and dimensioned, however, exact accuracy is not a requirement.

STREET. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

ARTERIAL STREET or THOROUGHFARE. A street carrying larger volumes of traffic and serving as a link between various sub-areas of the community. **THOROUGHFARES or ARTERIAL STREETS** are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

COLLECTOR STREET. A street which carries traffic from local streets to the major system of arterial streets and highways. **COLLECTOR STREETS** primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

CUL-DE-SAC STREET. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

LOCAL STREET. A street which is used primarily for access to abutting properties and for local traffic movement.

MARGINAL ACCESS STREET (FRONTAGE ROAD). A local street which is parallel and adjacent to thoroughfares and highways and which provides access to abutting properties and protection from through traffic.

SUBDIVIDER. Any individual, firm, association, syndicate, copartnership, corporation, trust, or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

SUBDIVISION. The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leaseholds. **SUBDIVISION** shall apply as outlined herein except for these separations:

- (1) Where the resulting parcels, tracts, lots, or interests will be 40 acres or larger in size and consistent with quarter-quarter section boundaries;

- (2) Creating cemetery lots as part of an approved cemetery;

MAJOR SUBDIVISION. Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of four or more lots, or any size subdivision requiring any new street or extension of city utilities or the creation of any public improvements.

MINOR SUBDIVISION. Any subdivision containing no more than three lots fronting on an existing street which does not require any new street, the extension of city utilities, or the creation of any public improvements, and does not adversely affect the remainder of the parcel or adjoining property, and is not in conflict with any provisions of the Comprehensive Plan, Official Map, Zoning Ordinance, or this chapter. This includes lot line adjustments by the relocation of a common boundary, the combination of recorded lots, and one-in-forty lot splits.

SURVEYOR. A land surveyor registered under state law.

THOROUGHFARE. (See Street; Arterial Street or Thoroughfare)

TWO-FAMILY DWELLING. A dwelling designed exclusively for occupancy by two families living independently of each other.

UNIT LOT. A lot created from the subdivision of a two-family dwelling or a quadraminium having different minimum lot size requirements than the conventional base lot within the zoning district.

VARIANCE. A modification or variation of the provisions of this chapter as applicable to a specific piece of property. Modification of the allowable use within a district shall not be considered a variance.

ZONING ADMINISTRATOR. The person duly appointed by the City Council as the individual charged with the responsibility of administering and enforcing this chapter.

ZONING ORDINANCE. The Zoning Ordinance or resolution controlling the use of land as adopted by the city.

(2) Flood-related definitions.

ACCESSORY USE or ACCESSORY STRUCTURE. A use or structure in the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

FEMA. Federal Emergency Management Agency.

FLOOD. A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

FLOOD FREQUENCY. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. That portion of the flood plain outside of the floodway. FLOOD FRINGE is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the city.

FLOOD HAZARD AREAS. The areas included in the Floodway and Flood Fringe as indicated on the official zoning map and the Flood Insurance Study and Flood Insurance Rate Map which have been officially adopted by the city.

FLOOD INSURANCE RATE MAP. The most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the city, and as applicable and allowed by law, the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for all areas within the City of St. Michael.

FLOOD INSURANCE STUDY. The most recent Flood Insurance Study prepared for the city by the Federal Emergency Management Agency and, as applicable and allowed by law, the Flood Insurance Study prepared by the Federal Emergency Management Agency for all areas within the City of St. Michael.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code.

FLOODWAY. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted city flood study.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

100-YEAR FLOOD. A flood which is representative of large regional floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted city flood study.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by the natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would be typical of a REACH.

REGULATORY FLOOD PROTECTION ELEVATION. A point not less than one foot above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this chapter are required to be elevated or floodproofed.

(Ord. 111, passed 12-23-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

ADMINISTRATION

§ 154.015 ADMINISTRATION.

This chapter shall be administered by the Zoning Administrator who is appointed by the City Council.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.016 AMENDMENTS.

The provisions of this chapter shall be amended by the city following a legally advertised public hearing before the Planning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.017 ACCEPTANCE AND RECORDATION CONDITIONS.

(A) Approvals necessary for acceptance of subdivision plats. Before any plat or subdivision shall be recorded or be of any validity, it shall be referred to the City Planning Commission and approved by the City Council as having fulfilled the requirements of this chapter, except as approved the Zoning Administrator consistent with § 154.037(B).

(B) Conditions for recording. No plat or subdivision shall be entitled to be recorded in the County Recorder's office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this chapter.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.018 FEES.

A subdivision application shall be accompanied by a fee set by the City Council from time to time. Any and all expenses incurred by the city for engineering, planning, legal, or other services related to the review and processing of the subdivision application that exceeds the established application fee shall be collected from the applicant.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.019 REGISTERED LAND SURVEYS.

All registered land surveys in the city shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and the Planning Commission shall first approve the arrangement, sizes, and relationships of proposed tracts in such registered land surveys, and tracts to be used as easements or roads should be so dedicated. Unless recommendation and approval have been obtained from the Planning Commission and City Council respectively, in accordance with the standards set forth in this section, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys, and the city may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts unless so approved.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.020 CONVEYANCE BY METES AND BOUNDS.

Except in unique situations as may be allowed by the City Council, no division of one or more parcels in which the land conveyed is described by

metes and bounds shall be made or recorded unless the subdivision is located in the A-1 or AP Zoning Districts and creates three or less new parcels. Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method and the city may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

Cross-reference:

Conveyance of land, see § 150.01

MINOR SUBDIVISIONS

§ 154.035 MINOR SUBDIVISIONS.

(A) Lot line adjustment. Adjustment of a lot line by the relocation of a common boundary or the combination of lots shall comply with the requirements set forth herein. A lot line adjustment that would cause one of the parcels to have two different zoning classifications, shall not be approved unless the affected parcel is rezoned to achieve a consistent zoning classification for the affected parcel. Any easements that become unnecessary as a result of the combination of lots must be vacated and new easements must be established as determined by the City Engineer;

(B) One-in-forty lot split. Newly created lots shall conform to the design and performance standards of the City Subdivision and Zoning Ordinances and shall be recorded with the county. A deed restriction clarifying future development rights is required on the newly created parcels;

(C) Multi-family dwelling lot split. In the case of a request to divide a base lot upon which a two-family dwelling, townhouse, or a quadraminium which is a part of a recorded plat, where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this chapter or the City Zoning Ordinance.

(D) Administrative lot split. A division of agricultural zoned land, in tracts larger than 40 acres in area, along quarter section lines, where the remainder is not less than 40 acres, shall be exempt from the requirements of § 154.036.

(Ord. 111, passed 12-23-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 2103, passed 12-14-21)

§ 154.036 APPLICATION REQUIREMENTS.

The following information shall be submitted along with the application for minor subdivisions described in § 154.035(B) and (C):

(A) A survey prepared by a registered land surveyor which includes:

- (1) Original and proposed lot boundaries;
- (2) The location of existing structures on the site;
- (3) Existing and proposed easement locations;
- (4) Environmental constraints of the site.

(B) A soil test demonstrating the suitability for an on-site septic system if a public sewer is not immediately available.

(C) A title search showing any existing deed restrictions or other encumbrances.

(D) Additional information as outlined in §§ 155.065 and 155.066 if deemed necessary and required by the Zoning Administrator.

(Ord. 111, passed 12-23-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 1603, passed 3-8-16; Am. Ord. 2103, passed 12-14-21)

§ 154.037 PROCESSING.

The following process shall be followed for minor subdivisions:

(A) Minor subdivisions according to § 154.035(B) and (C). Upon receipt of the completed application and required informational submissions, the Zoning Administrator shall set a date for review of the minor subdivision by the Planning Commission and notice a public hearing. Written notice shall be mailed by the Zoning Administrator, or its designee, to the applicant and all landowners abutting the subject property of the minor subdivision, at least ten days before the Planning Commission considers the application. The notice shall contain a brief description of the minor subdivision sought, along with notice of the date, time, and place of the Planning Commission meeting wherein the minor subdivision will be considered. Failure of the Zoning Administrator to comply with the notice provisions of this section shall not affect the validity of any subsequent proceedings. Before a minor subdivision shall be recorded or be of any validity, it shall be referred to the Planning Commission for review and recommendation, then forwarded to the City Council for consideration and final approval.

(B) Minor subdivisions according to § 154.035(A): lot combinations and adjustment of a lot line by the relocation of a common boundary and (D) administrative lot splits. The Zoning Administrator shall review the application and required informational submissions to determine conformance with the zoning and subdivision ordinances. The Zoning Administrator shall have the authority to make a final decision on the application. The Planning Commission shall serve as the Board of Adjustment and Appeals if the application for minor subdivision is denied by the Zoning Administrator.

(C) Expiration of approval for minor subdivisions, lot combinations, lot line adjustments, and administrative lot splits. City approval for a minor subdivision, lot combination, lot line adjustment, or administrative lot split shall become null and void if, within 365 days after such approval by the City Council, the minor subdivision, lot combination, lot line adjustment, or administrative lot split has not been duly filed and recorded with the Wright County Recorder's Office. An extension from this requirement may be granted by the City Council upon the city's receipt of a request for extension. A request for an extension shall be in writing and filed with the city at least 14 days before the voidance of the approved minor subdivision, lot combination, lot line adjustment, or administrative lot split. There shall be no charge for the filing of such request. The request for extension shall state facts showing a good faith attempt was made to meet the recording requirement.

(Ord. 111, passed 12-23-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1901, passed 1-8-19; Am. Ord. 2103, passed 12-14-21)

§ 154.038 DESIGN STANDARDS.

The minor subdivision shall conform to all design standards as specified in this chapter, including §§ 154.080 et seq. Any proposed deviation from the standards shall require the processing of a variance request.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

PLAN AND PLAT APPROVAL PROCEDURE

§ 154.050 SKETCH PLAN.

(A) In order to insure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances, code provisions, or plans

prior to the development of a preliminary plat, all applicants shall present a sketch plan to the Zoning Administrator prior to filing a preliminary plat. Comments on the sketch plan shall not be considered binding in regard to subsequent plat review. The Zoning Administrator shall have the authority to refer the sketch plan to the Planning Commission and/or City Council for review and comment.

(B) The sketch plan submission shall include, but not be limited to, the following:

(1) Application and fee;

(2) A deposit or escrow security in an amount determined necessary by the Zoning Administrator to pay review costs of the city staff and consultants; and

(3) Plan information including a scaled drawing, written description, or other information determined necessary by the Zoning Administrator.

(Ord. 111, passed 12-23-97; Am. Ord. 0405, passed 5-11-04; Am. Ord. 1603, passed 3-8-16)

§ 154.051 PRELIMINARY PLAT.

(A) Filing.

(1) The applicant shall file a request for preliminary plat approval and the accompanying fee at least 22 days prior to the next regular Planning Commission meeting at which the request may be considered. After the city has received the request for a plat approval, it shall inform the applicant within 15 days whether the submittal was complete. If deemed not complete, the applicant will be informed of needed material or information to be made complete. If no notification of completion is made by the city within 15 days, the request will be placed on a regular Planning Commission agenda for consideration.

(2) The application shall be accompanied by a fee as provided for by City Council resolution, and escrow as reasonably determined by the Zoning Administrator. The application shall also be accompanied by large scale copies, and an electronic copy of a preliminary plat and supportive information in conformity with requirements of this chapter. Where appropriate, the city staff will meet with the applicant to discuss the request and related information. Upon receipt of all the required information, the Zoning Administrator may forward the application and required information to the appropriate city staff/consultants and city commissions for review and technical reports.

(3) The applicant shall supply proof of title in a form approved by the City Attorney and the legal description of the property for which the subdivision is requested and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested subdivision.

(4) The preliminary plat shall be considered as being officially submitted only when all of the information requirements are complied with, the appropriate fees paid, and escrows deposited.

(B) Hearing. When an application is determined to be complete, the Zoning Administrator shall schedule a public hearing for public review of the preliminary plat. The hearing shall be held after adequate time has been allowed for staff and advisory body review of the plat. Within 120 days of receipt of the application, the Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council. Notice of the hearing shall consist of a legal property description and a description of the request and shall be published in the official newspaper at least ten days prior to the hearing. Written notification of the hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter, provided a bona fide attempt has been made to comply with the notice requirements of this chapter.

(C) Technical assistance reports. The Zoning Administrator shall instruct the appropriate staff to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

(D) Review by other commissions or jurisdictions. The Zoning Administrator shall refer copies of the preliminary plat to the Park Board and/or county, state, or other public jurisdictions for its review and comments, where appropriate and when required as determined by the Zoning Administrator.

(E) Planning Commission action. The applicant or a designated representative thereof shall appear before the Planning Commission at the public hearing in order to answer questions concerning the proposed request. The Planning Commission shall make a recommendation to the City Council following the close of the public hearing. If the Planning Commission has not acted upon the preliminary plat, and the statutory review period will expire before the next regularly scheduled Planning Commission meeting, the Council may act on the preliminary plat without the Planning Commission's recommendation.

(F) City Council action.

(1) Upon completion of the report and recommendation of the Planning Commission, the request shall be placed on the agenda of the City Council. The report and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(2) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary or take action based on Planning Commission recommendation. The City Council shall make recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety, and welfare. The City Council shall adopt a resolution approving or denying the request.

(3) The Council shall approve or disapprove the preliminary plat within 120 days following delivery of an application completed in compliance with this chapter, unless the time for Council decision has been extended pursuant to a written agreement with the applicant.

(4) If the preliminary plat is denied by the City Council, the reasons for such action shall be recorded in the proceedings of the Council. If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety, general welfare, and convenience of the city.

(5) The City Council reserves the right to decline approval of a preliminary plat if due regard is not shown for the preservation of all natural features, such as topography, trees, watercourses, scenic points, prehistoric and historical spots, and similar community assets, which, if preserved, will add attractiveness and stability to the proposed development of the property.

(6) Approval of a preliminary plat shall be null and void unless within 365 days after receiving the last required approval of the preliminary plat there shall be submitted to the Zoning Administrator a final plat or plats for all or a portion of the approved preliminary plat in accordance with the conditions upon which approval was granted by the Council. An extension from this requirement may be granted by the City Council upon the reception of a request for extension. An extension shall be requested in writing and filed with the city at least 14 days before the voidance of the approved preliminary plat. There shall be no charge for the filing of such request. The request for extension shall state facts showing a good faith attempt was made to meet the final plat submission requirement.

(7) All preliminary plats must be final platted into lots, blocks, and outlots within one year of preliminary plat approval. All outlots must be

platted into lots and blocks within five years of the recording of the initial final plat, unless otherwise approved by the City Council.

(8) In the event of changes to city, county, state, and federal development regulations, the city may require a preliminary plat to be amended to incorporate applicable changes, except as may be prohibited by Minnesota Statutes.

(9) Should the applicant desire to amend a preliminary plat as approved, an amended preliminary plat may be submitted. The city may require the applicant to follow the same procedure as a new preliminary plat. No public hearing will be required for the amendment if the opinion of the city is that the scope of the changes does not constitute a new preliminary plat. A filing fee, as established by the city, shall be charged for amendment processing.

(10) Approval of the preliminary plat shall not be considered binding in regard to subsequent final plat contemplation.

(Ord. 111, passed 12-23-97; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1901, passed 1-8-19; Am. Ord. 1902, passed 5-14-19)

§ 154.052 FINAL PLAT.

(A) Filing. After the preliminary plat has been approved, the final plat shall be submitted for review as set forth in the subsections which follow. The city may agree to review the preliminary and final plat simultaneously. The final plat shall incorporate all changes, modifications, and revisions required by the city. Otherwise, it shall strictly conform to the approved preliminary plat.

(B) Approval of the Planning Commission. One full size and an electronic copy of the final plat shall be submitted to the Zoning Administrator for distribution to the Planning Commission, the City Council, and appropriate city staff. The city staff shall examine the final plat and prepare a recommendation to the Planning Commission. The nature of Planning Commission recommendation for approval, disapproval, or any delay in decision of the final plat will be conveyed to the applicant within ten days after the meeting of the City Planning Commission at which such plat was considered.

(C) Development agreement. Prior to recording or registering a final plat, the applicant shall have executed a development agreement with the city which controls the installation of all required improvements and assures compliance with all conditions of approval. The agreement will

require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.

(D) Approval of the City Council. After review of the final plat by the Planning Commission, the final plat, together with the recommendations of the Planning Commission and the development agreement, shall be submitted to the City Council for consideration. If accepted, the final plat and development agreement shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication, and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval.

(E) Special assessments.

(1) When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, city staff shall:

- (a) Estimate the clerical cost of preparing a revised assessment role;
- (b) File the same with the County Auditor; and
- (c) Make such division and allocation.

(2) Upon approval by the Council of all costs associated with the development and filing of the assessment role, the same shall be paid to the Zoning Administrator before recording the final plat at Wright County.

(F) Street addresses. The city shall assign street names and address numbers.

(G) Recording final plat. If the final plat and development agreement are approved by the City Council, the applicant shall record them with the County Recorder within 120 days after the approval or approval of the final plat shall be considered void, unless a request for a time extension is submitted in writing and approved by the City Council. The applicant shall, immediately upon recording, furnish the Zoning Administrator with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in the plat until the city has received evidence of the plat and development agreement being recorded by the county and the provisions of the subdivision's development agreement have been satisfactorily met.

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

§ 154.053 DENIAL OF PLATS.

(A) Premature subdivisions. Any preliminary or final plat of a proposed subdivision deemed premature for development shall be denied by the City Council.

(1) Conditions establishing premature subdivisions. A subdivision may be deemed premature should any of the conditions set forth in the provisions which follow exist:

(a) Lack of adequate drainage. A condition of inadequate drainage exists.

1. A condition of inadequate drainage shall be deemed to exist if:

a. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures and/or adjacent properties;

b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land;

c. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downstream land.

2. Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

(b) Lack of adequate water supply. There is a lack of adequate water supply. A proposed subdivision shall be deemed to lack an adequate water supply if joint power water is not available to the plat. With the extension of municipal water, all private wells must be capped in accordance with state statutes.

(c) Lack of adequate roads or highways to serve subdivision. There is a lack of adequate roads or highways to serve the subdivision. A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

1. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance, and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare or seriously aggravate an already hazardous condition; and when, with due regard to the advice of the City Engineer, the county, and/or the Minnesota

Department of Transportation, the roads are inadequate for the intended use;

2. The traffic volume generated by the proposed subdivision would create unreasonable street congestion or unsafe conditions on streets existing at the time of the application or proposed for completion within the next two years;

3. The roads fail to meet minimum city standards.

(d) Lack of adequate waste disposal systems. There is a lack of adequate waste disposal systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if municipal sanitary sewer is not available to the plat or if in subdivisions for which sewer lines are proposed there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the City Comprehensive Plan, as may be amended.

(e) Inconsistency with Comprehensive Plan. The proposed subdivision is inconsistent with the purposes, objectives, and recommendations of the duly adopted City Comprehensive Plan, as may be amended.

(f) Providing public improvements. Public improvements, such as recreational facilities, or other public facilities reasonably necessitated by the subdivision which must be provided at public expense cannot be reasonably provided for within the next two fiscal years.

(g) Minnesota Environmental Quality Board (MEQB) policies. The proposed subdivision is inconsistent with the policies of MEQB 25, as may be amended, and could adversely impact critical environmental areas, or potentially disrupt or destroy historic areas which are designated or officially recognized by the City Council, in violation of federal and state historical preservation laws.

(2) Burden of establishing. The burden shall be upon the applicant to show that the proposed subdivision is not premature.

(B) Denial of plat. The Planning Commission may recommend denial and the Council may deny the subdivision if it makes any one or more of the following findings:

(1) That the proposed subdivision is in conflict with adopted applicable general and specific comprehensive plans of the city;

(2) That the physical characteristics of this site, including but not limited to topography, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage, and

retention, are such that the site is not suitable for the type of development, design, or use contemplated;

(3) That the site is not physically suitable for the proposed density of development;

(4) That the design of the subdivision or the proposed improvements are likely to cause environmental damage;

(5) That the design of the subdivision or the type of improvements are likely to cause public health problems;

(6) That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgement of a court;

(7) That the proposed subdivision, its site, or its design adversely affects the flood-carrying capacity of the floodway, increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the city;

(8) The proposed subdivision is inconsistent with the policies and standards of the state-defined Shoreland, Floodplain, and Wetland Districts;

(9) The City Council deems the subdivision to be premature;

(10) The design of the subdivision does not conform to minimum city standards.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

PLAN AND PLAT CONTENTS

§ 154.065 SKETCH PLAN CONTENTS.

(A) Sketch plans shall be prepared at a usable scale and contain, at a minimum, the following information:

(1) The property boundary;

(2) A North arrow;

(3) The scale;

(4) The street layout on and adjacent to the plat;

(5) A designation of land use and current or proposed zoning;

(6) The significant topographical or physical features; and

(7) General lot locations and layout.

(B) The city will review the sketch plan for adherence to site design considerations such as driveway access, lot size, block size, encroachment on wetlands or steep slopes, circulation, etc. After the review, the city will inform the applicant of its findings and suggest changes or improvements to the plan prior to submittal of a preliminary plat.

(Ord. 111, passed 12-23-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 1603, passed 3-8-16)

§ 154.066 PRELIMINARY PLAT CONTENTS.

The applicant shall prepare and submit a preliminary plat, together with a preliminary grading plan, a preliminary utility plan, a preliminary landscape plan, and any other necessary supplementary information.

(A) General information. The preliminary plat, together with the preliminary grading plan, and preliminary utility plan, shall contain the information set forth in the subsections which follow as well as within other chapters of the City's Code, City Engineering Guidelines or any official city policies.

(B) General requirements.

(1) The proposed name of the subdivision, the name not duplicating or too closely resembling names of existing subdivisions;

(2) The location of boundary lines in relation to known section, quarter section, or quarter-quarter section lines comprising a legal description of the property;

(3) The names and addresses of all persons having property interests, and the developer, designer, and surveyor together with his or her registration number;

(4) A graphic scale or plat, not less than one inch to 100 feet;

(5) A North arrow;

(6) The date of preparation and any subsequent revision dates.

(C) Preliminary plat. The preliminary plat shall contain the information set forth in the subsections which follow:

(1) Existing conditions.

(a) The boundary line and total acreage of the proposed plat, clearly indicated;

(b) The existing zoning classifications for land within and abutting the subdivision;

(c) The location, widths, and names of all existing or previously platted streets or other public ways, showing the type, width, and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 350 feet beyond the tract;

(d) Boundary lines of adjoining unsubdivided or subdivided land within 350 feet identified by name and ownership, including all contiguous land owned and controlled by the applicant; and

(e) The delineation of all wetlands in accordance with criteria established by the Wetlands Conservation Act 1991 and the Wetland Systems District regulations set forth in Chapter 155 of the City's Code.

(2) Proposed design features.

(a) The layout of proposed streets showing the right-of-way widths, and the proposed names of streets in conformance with city and county street identification policies. The name of any street heretofore used in the city or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used;

(b) The location and widths of proposed alleys and pedestrian ways;

(c) The location, dimensions, and purpose of all easements;

(d) The layout, numbers, lot areas, and preliminary dimensions of lots, blocks, and outlots;

(e) Minimum front and side street building setback lines;

(f) When lots are located on curves, the width of the lot at the building setback line; and

(g) Areas, other than streets, alleys, pedestrian ways, and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

(3) Supplementary information. Any or all of the supplementary information requirements set forth in this subdivision shall be submitted when deemed necessary by the city staff, consultants, advisory bodies, and/or City Council:

(a) Proposed protective covenants;

(b) A statement of the proposed use of lots, stating the type of buildings with the number of proposed dwelling units or types of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population. The city may require the applicant to have formal traffic or other studies performed to the city's satisfaction which show the effect of the proposed development on traffic, fire hazards, congestion, or other matters of public concern;

(c) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant;

(d) Where the applicant owns property adjacent to that which is being proposed for the subdivision, it shall be required that the applicant submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivision;

(e) Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be re-subdivided in the future;

(f) When the city has agreed to install improvements in a development, the applicant may be required to furnish a financial statement satisfactory to the city indicating the applicant's ability to develop the plat;

(g) Any environmental review required by law;

(h) Applications, statements, and supporting documentation and plans for rezoning, variances, conditional use permits, or planned unit development approvals being sought for the subdivision;

(i) Landscape and screening plans in conformance with § 155.031 of this code; and

(j) Such other information as may be required by the city.

(D) Grading plan. The preliminary grading plan shall contain the information set forth in the subdivisions which follow:

(1) Existing conditions.

(a) The location and size of existing sewers, water mains, culverts, or other underground utilities and facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes, and hydrants shall also be shown;

(b) Topographic data, including contours at vertical intervals of not more than two feet. Watercourses, wetlands, woodland areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown;

(c) 100-year-flood elevations, the regulatory flood protection, and boundaries of floodway and flood fringe areas, if known, taking into consideration the Flood Insurance Study and Flood Insurance Rate Map;

(d) A statement certifying the environmental condition of the site including the presence of any hazardous substance as defined in M.S. § 115B.02(8). The statement may be required to be based upon an environmental assessment of the site by an engineering firm acceptable to the city; and

(e) The delineation of all wetlands in accordance with criteria established by the Wetlands Conservation Act of 1991 and the Wetland Systems District regulations set forth in Chapter 155 of the City's Code.

(2) Proposed design features.

(a) A grading plan with minimum two-foot contours which shall include the proposed grading and drainage of the site, including provisions for surface water ponding and drainage. Also to be stipulated are the building pad locations, garage floor, first floor, and basement elevations of all structures;

(b) Layout of the proposed streets showing right-of-way widths, center line gradients, and typical cross sections;

(c) Proposed fill, levees, channel modifications, and other methods to overcome flood or erosion hazard areas in accordance with the Zoning Ordinance and by use of the 100-year-flood profile and other supporting technical data in the Flood Insurance Study;

(d) A plan for soil erosion and sediment control both during construction and after development shall be completed. The plan shall include gradients of waterways, design of erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with the technical standards and specifications of § 154.087 and approved by the City Council;

(e) When applicable, a "wetland systems impact plan" which sets forth provision for sediment control, water management, maintenance of landscape features, or any other efforts intended to maintain or improve environmental quality within the wetland impact area. The plan shall identify changes to be made in the natural condition of the earth and shall minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible;

(f) When applicable, wetland mitigation efforts shall be conducted with the Minnesota Department of Natural Resources, the Army Corps of Engineers, or other pertinent agencies; and

(g) Provision for surface water disposal, ponding, drainage, and flood control.

(3) Supplementary information. Any or all of the supplementary information requirements set forth in this division shall be submitted when deemed necessary by the city staff, consultants, advisory bodies, and/or City Council:

(4) An accurate soil survey of the subdivision prepared by a registered soils engineer to determine soil suitability for development.

(E) Utility plan. The preliminary utility plan shall contain the information set forth in the subdivisions which follow:

(1) Existing conditions. The location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes, any hydrants shall also be shown.

(2) Proposed design features.

(a) The locations and routing of proposed sewer lines and water mains, and identification of gravity, force main, and alternative service lines;

(b) Water mains being provided to serve the subdivision by extension of an existing community system. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the Joint Powers Water Board; and

(c) Sanitary sewer mains and service connections being installed in accordance with the standards of the city with regard to location, size, and service type, subject to final review and approval of the City Council.

(F) Certification required. The preliminary plat must be prepared and signed by a registered land surveyor. The grading and utility plans must be prepared and signed by a registered civil engineer.

(Ord. 111, passed 12-23-97; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

§ 154.067 FINAL PLAT CONTENTS.

The applicant shall submit a final plat together with a final grading plan, utility plan, landscape plan, and any other necessary supplementary information.

(A) Final plat. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota Statutes and county regulations, and such final plat or accompanying submittals shall contain the following information:

(1) The name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision recorded in the county and shall be subject to City Council approval;

(2) The location by section, township, range, county, and state, and including descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions;

(3) The location of monuments, shown and described. The locations of monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments;

(4) The location of lots, streets, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points of curve to lot lines;

(5) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block;

(6) The exact locations, widths, and names of all streets to be dedicated. All street names shall be approved by the city Zoning Administrator;

(7) The location and width of all easements to be dedicated;

(8) The name, address, and phone number of the surveyor making the plat;

(9) The scale of the plat, not less than one inch to 100 feet (the scale to be shown graphically on a bar scale), the date, and a North arrow;

(10) A current abstract of title or a registered property certificate or in lieu thereof, at the option of the City Attorney, a commitment for title insurance from a title insurance carrier authorized to conduct business in this state along with any unrecorded documents to be certified by the City Attorney;

(11) Deed restrictions and protective covenants which involve a matter of public concern;

(12) A statement dedicating all streets, alleys, and other public areas not previously dedicated, as follows:

Streets, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

(13) A statement dedicating all easements as follows:

Easements for installation and maintenance of utilities and drainage facilities are reserved over, under, and along the designated areas marked "drainage and utility easements."

(B) Certificate required.

(1) Certification by a registered land surveyor in the form required by M.S. § 505.03, as amended;

(2) The execution of all owners of any interest in the land and holders of a mortgage thereon of the certificates required by M.S. § 505.03, as amended, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council;

(3) Space for certificates of approval and review to be filled in by the signatures of the Mayor and City Administrator. The form of approval of the City Council is as follows:

Approved by the City Council of the City of St. Michael.

This day of , 20 .

Signed:

Mayor

Attest:

City Administrator

(C) Development agreement. Final plat approval shall be contingent upon the applicant's entrance into a development agreement with the city. The agreement shall be prepared by the City Attorney and shall ensure development performance based on approvals. The agreement shall address, but not be limited to, the following:

(1) Financial securities;

(2) Warranties;

- (3) Development time lines;
- (4) Remedies for default; and
- (5) Conditions of approval.

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

DESIGN STANDARDS

§ 154.080 CONFORMITY WITH OTHER STANDARDS.

A proposed subdivision shall conform to the Comprehensive Plan, to related policies adopted by the city, and to all other Chapters of the official Code and Zoning Ordinance of the city.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.081 INTERPRETATION OF REQUIREMENTS.

The design features set forth in this section are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets, and overall design as deemed appropriate considering the property being subdivided.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

§ 154.082 LAND REQUIREMENTS.

(A) Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, or adverse soil, rock formation, or wetlands.

(B) Land subject to hazards to life, health, or property shall not be subdivided until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

(C) Proposed subdivisions shall be coordinated with surrounding jurisdictions and/or neighborhoods so that the city as a whole may develop efficiently and harmoniously.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.083 BLOCKS.

(A) Block length. In general, intersecting streets determining block lengths shall be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed 1,000 feet, nor be less than 500 feet in length, except where topography or other conditions justify a departure from this standard. In blocks longer than 1,000 feet, pedestrian ways and/or easements through the block may be required near the center of the block.

(B) Block width. The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.084 LOTS.

(A) Area/width. The minimum lot area and width shall not be less than that established by the City Zoning Ordinance in effect at the time of adoption of the subdivision.

(B) Corner lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the Zoning Ordinance.

(C) Side lot lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

(D) Building sites. Each lot shall provide an adequate building site at least 18 inches above the top of the adjacent curb unless approved by the City Engineer upon the basis of plans submitted showing alternative, acceptable surface drainage measures.

(E) Frontage. Every lot must have the minimum frontage on a city-approved street other than an alley, as required in the City Zoning Ordinance.

(F) Access. Each lot shall directly access a public street.

(G) Setback lines. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the City Zoning Ordinance, as may be amended.

(H) Watercourses. Watercourses shall be contained within abutting lots. Watercourses shall be protected by easement to the anticipated high water level (as determined by the city). Lots with easements protecting watercourses shall have sufficient dimensions and area above the normal water

(I) Drainage. Lots shall be graded so as to provide drainage away from building locations, subject to the approval of the City Engineer. A grading plan shall be submitted showing all lot grading and drainage provisions.

(J) Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(K) Lot remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or outlot, rather than be allowed to remain as unusable parcels.

(L) Political boundaries. No subdivision shall extend over a political boundary or school district line without document notification to affected units of government.

(M) Frontage on two streets. Double frontage, or lots with frontage on two parallel streets, shall not be permitted except where lots back on major collector streets or county or state highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen plantings and/or buffering along the back lot line. As part of the subdivision review process, the submission of a buffering and screening plan may be required.

(N) Access to major collector streets. In the case where a proposed subdivision is adjacent to a major collector street, said streets to be defined by the city's Comprehensive Plan, there shall be no direct vehicular access from individual lots to such streets and roads. In the subdividing of small tracts of land fronting on limited access highways or major collector streets where there is no other alternative, a temporary access may be granted, subject to terms and conditions defined by the City Council and applicable county or state agencies. As neighboring land becomes subdivided and more preferable access arrangements become possible, temporary access permits shall become void. In cases where direct lot access to collector or arterial streets is allowed, special traffic safety measures including, but not limited to, provisions for on-site vehicle turnaround shall be required. In

cases where a proposed subdivision is adjacent to a county or state highway, the subdivision shall be subject to county and/or state approval.

(O) Outlots. Lot remnants and future subdivision development phases shall be platted as outlots. In cases where outlots are created or exist, their area shall not be utilized in calculating minimums for buildable lot area requirements. Outlots are also prohibited from qualifying for building permits.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.085 STREETS AND ALLEYS.

(A) Contiguous streets. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of arterials and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served and in compliance with the Comprehensive Plan.

(B) Local streets and dead-end streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than 500 feet, including a terminal turnaround which shall be provided at the closed end, with a right-of-way radius of not less than 50 feet. A 42-foot street surface radius will be required on all cul-de-sacs.

(C) Street plans for future subdivisions. Where the subdivision to be submitted includes only part of the tract owned or intended for development by the applicant, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the applicant. When determined necessary by the city, the plan shall extend streets and utilities to the property line of the adjacent tract and/or tracts.

(D) Temporary cul-de-sacs. In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turnaround facility shall be provided at the closed end, in conformance with cul-de-sac requirements.

(E) Subdivisions abutting major rights-of-way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or state highway or county thoroughfare, provision may be made for a marginal

access street approximately parallel and adjacent to the boundary of the right-of-way; provided, that due consideration is given to proper circulation design, or for a street at a distance suitable for the appropriate use of land between the street and right-of-way. The distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.

(F) Trails. Trails shall be established in accordance with the City's Comprehensive Park, Trail and Open Space Plan, and in other areas where trails will serve an important transportation or recreational purpose as recommended and approved by the City Council. Trail corridors shall meet the following minimum requirements unless otherwise permitted by the City Council:

- (1) Dedicated to the city as an easement for public trail purposes;
- (2) Minimum 30-foot wide corridor;
- (3) Minimum eight-foot wide surface;
- (4) Handicap accessibility wherever possible;
- (5) No above-ground utilities (i.e. lift stations, utility boxes) may be within the trail corridor;
- (6) A landscape plan, including shrubs and trees, shall be required on trail corridors located in the side yard of residential lots. These landscape plantings shall be in addition to those required by § 155.031 of this code;
- (7) Due regard shall be shown for trees, wetlands and other environmental features when locating and constructing trails.

(G) Service access, alleyways. Except within the city's Downtown Business District, service access and alleys shall be prohibited. Where provided, alleys shall not be less than 25 feet in width. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end.

(H) Compliance with city, county and state transportation plans. All subdivisions adjacent to or incorporating planned streets which are identified in the city, County and State Transportation Plans, as amended, or existing streets shall comply with the minimum right-of-way, surfaced width and design standards as outlined in the plans or as recommended by the City Engineer.

(I) Street design. Minimum right-of-way widths, paving widths, angles of intersection, curb radii, distances along sides of sight triangles, horizontal alignments, vertical alignments, as well as maximum grades shall be in accordance with the following table:

Street Design

Design Element

Minor Arterial Collector

Major Collector

Minor Collector

Local Streets

Cul-de-Sacs

Alleys

Street Design

Design Element

Minor Arterial Collector

Major Collector

Minor Collector

Local Streets

Cul-de-Sacs

Alleys

Right-of-way width

150 - 200 ft.

100 - 150 ft.

80 - 100 ft.

50 - 66 ft.

50 ft./50 ft. R

25 ft.

Paving width*

88 ft.

56 ft.

38 ft.

34 ft.

34 ft./42 ft. R

20 ft.

Maximum grade

7.5%

7.5%

7.5%

7.5%

7.5%/7.5% R

7.5%

Minimum grade

0.5%

0.5%

7.5%

0.5%/0.5% R

0.5%

Cross grade

< 2 - 3% Crown >

Design section

10 ton

9 ton

9 ton

9 ton

9 ton

9 ton

Minimum angle intersection

90

90

80

70

70

70

Minimum curb radius

65 ft.

50 ft.

35 ft.

20 ft.

15 ft.

—

Grades for 25 feet before intersection

3.0%

3.0%

3.0%

3.0%

3.0%

3.0%

Site triangles

(distance along sides of) through street/stop street

650 ft.

/30 ft.

500 ft.

/30 ft

500 ft.

/30 ft.

250 ft.

/30 ft.

250 ft.

/30 ft.

50 ft.

/25 ft.

Horizontal align (min. radius of center line)

1,350 ft.

850 ft.

450 ft.

215 ft.

75 ft.

100 ft.

Vertical curves (min. sight distance)

650 ft.

475 ft.

325 ft.

250 ft.

100 ft.

100 ft.

NOTE: Right-of-way requirements may be increased for specific thoroughfares if existing or anticipated traffic flow warrants it to accommodate trails and sidewalks, or if drainage easements parallel such thoroughfares. Increased width will be set by the City Council upon recommendation of the Planning Commission and City Engineer.

* As measured from back of curb to back of curb.

(J) Streets in flood hazard area. No street shall be approved if its final surface is at a lower elevation than two feet below the regulatory flood protection elevation. The City Council may require profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets, provided such fill does not unduly increase flood heights and provided any such fill would not result in a stage increase violating the requirements of M.S. Chapters 104 and 105, as such chapters may be amended,

supplemented, or replaced from time to time, and any applicable requirements imposed by the Federal Emergency Management Agency pursuant to its rules and regulations. Drainage openings shall not restrict the flow of water so as to unduly increase flood heights, and provided any such drainage opening would not violate the requirements of M.S. Chapters 104 and 105, as such chapters may be amended, supplemented, or replaced from time to time, and any applicable requirements imposed by the Federal Emergency Management Agency pursuant to its rules and regulations.

(K) Reverse curves. Minimum design standards for major collector streets shall comply with Minnesota Department of Transportation State Aid Standards.

(L) Reserve strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

(M) Private streets. Private streets and reserve strips, except in the case of planned unit developments, shall be prohibited and no public improvements shall be approved for any private street. All streets shall be dedicated for public use. If any person applies to subdivide or replat any land or parcels adjoining an existing private street, they shall be required to dedicate the private street for public use and schedule for improvement to public street standards at the time of final plat.

(N) Street intersections. Intersections having more than four corners shall be prohibited. Adequate land for future intersections and interchange construction needs shall be dedicated. Angles formed by the intersection of two streets shall comply with the provisions of division (I) above.

(O) Street intersection offsets. Street intersection jogs with center line offsets of less than 125 feet shall be prohibited.

(P) Center line curvature. The minimum horizontal curvature of streets shall be in accordance with the MNDOT Highway Design Manual for the type of street and design speed. The minimum curvature shall be 250 feet radius.

(Q) Half streets. Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision. No permanent street improvement shall be permitted within a half street right-of-way. All lots having frontage or access solely from a half street are prohibited from being eligible for building permits.

(R) Dedication. All proposed streets shown on the subdivision shall be in conformity to city, county, and state plans and standards and be offered for

dedication as public streets unless otherwise determined by the City Council.

(S) Curbs and gutters. Concrete curbs and gutters shall be required on all streets, except in the Rural Residential (RR) District or unless otherwise directed by the City Council at the time the subdivision is approved.

(T) Pavement.

(1) The base course shall consist of the latest Minnesota Department of Highways approved material, having a thickness of not less than eight inches. The City Engineer shall have the right to determine whether this thickness is adequate for the site conditions and type of street that has been proposed.

(2) Pavement shall be required on all streets within a subdivision, and for all streets providing access to the subdivision from at least one direction. If the street is blacktopped, it must be constructed with a minimum of 2 1/2-inch layers of Minnesota Highway Department 2331 bituminous. If the street is constructed with concrete, the proposed pavement design must first be approved by the City Engineer.

(3) Street shoulders shall be constructed which are uniformly and thoroughly compacted by rolling and level with the tops of curbs.

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1806, passed 10-23-18) Penalty, see § 154.999

§ 154.086 EASEMENTS.

(A) Width and location. An easement for drainage and utilities at least ten feet wide shall be provided around the perimeter of a subdivision, along front lot lines and centered along shared side and rear lot lines. If necessary for the extension of main water, sewer lines, similar utilities, or drainage purposes, or to incorporate wetlands easements of greater width or area may be required.

(B) Continuous utility easement locations. Drainage and utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

(C) Guy wires. Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys fall alongside lot lines.

(D) Storm water management ponds. New storm water management ponds that are constructed as part of subdivisions shall be covered by drainage and utility easements that are dedicated to the city. At least one side of a pond should be located adjacent to public right-of-way and adequate easement dedicated to provide access for future maintenance.

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.087 EROSION AND SEDIMENT CONTROL.

All subdivision designs shall incorporate adequate provisions for erosion and sediment control and be subject to the review and approval of the City Engineer (see Chapter 152: Surface Water Management).

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.088 DRAINAGE.

All subdivision designs shall incorporate adequate provisions for storm water runoff and be subject to the review and approval of the City Engineer (see Chapter 152: Surface Water Management).

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1603, passed 3-8-16)

§ 154.089 PROTECTED AREAS.

(A) Where land proposed for subdivision is deemed environmentally sensitive by the city due to the existence of wetlands, drainageways, watercourses, floodable areas, or steep slopes, the design of the subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.

(B) Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of easements or outlots.

(C) In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the applicant shall be required to demonstrate that the proposed design will not require construction on slopes over 18%,

or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

(Ord. 111, passed 12-23-97; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

§ 154.090 MAIL AND PAPER BOX LOCATIONS.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) BOXES. All mail boxes, paper boxes and advertising boxes, wherein either mail is distributed, newspapers and magazines are distributed or advertising placed for the use of residents of the city.

(2) RURAL FARM AREAS. Homes located on premises within the city limits with at least five acres or more.

(B) Requirements. The placement of all boxes shall comply with the following:

(1) The minimum height from the top of the curb to the bottom of the frame holding the box shall be no less than 36 inches;

(2) No newspaper boxes can be below 36 inches from the top of the curb;

(3) The bottom of the mail box shall be approximately 42 inches from the top of the curb;

(4) Boxes shall be allowed to be placed in the boulevard of all city streets except those streets where the curb reaches the sidewalk and there is no boulevard.

(C) Location of boxes on city streets.

(1) All boxes on a city street that is not a cul-de-sac shall be placed on the north or east side of the street, unless the line of travel for postal delivery requires placement elsewhere as directed by the Post Office.

(2) No boxes shall be placed within ten feet of any stone sewer inlet or any fire hydrant.

(3) Where there is more than one house on a city block, boxes shall be located in a cluster. Paper boxes and advertising boxes must be located in the same cluster as the mail boxes. The clusters shall be centrally located in the middle of the homes to be served. The clusters shall be placed on the north or east side of the street on a city street that is not a cul-de-sac,

unless the line of travel for postal delivery requires placement elsewhere as directed by the Post Office.

(4) For cul-de-sacs, the cluster shall be placed on the left side of the road facing the entrance to the cul-de-sac; and the cluster shall be placed a minimum of ten feet from the beginning of the radius of the cul-de-sac.

(Ord. 111, passed 12-23-97; Am. Ord. 137, passed 6-12-01; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.091 PARK AND OTHER PUBLIC LAND DEDICATION REQUIREMENTS.

(A) Findings of the City Council.

(1) The City Council finds that as the city continues to increase in population, planning is needed to ensure that the economical development of park lands are identified, and that such lands are preserved for public use during the land subdivision and development process and not developed for other purposes. The provisions by the city of adequate park land facilities to serve the recreational needs of new residents and workers within the city is an important factor in the maintenance of a high quality of life in the city and contributes to the health and safety of citizens. In addition, adequate open space land should be reserved to retain the character of the city, protect wildlife habitats, cleanse the air and storm water runoff, and provide passive recreational opportunities.

(2) It is therefore in the best interest of all of the citizens of the city to ensure that when new development is hereinafter created or made possible by subdivision of lands, that adequate measures are provided in the subdivision process to permit the city to identify land suitable for development as new park land, and to obtain and develop such lands for the use of the public at a reasonable cost. It also is in the best interest of all the citizens of the city to ensure that adequate open space is dedicated and reserved.

(B) Purpose. The provisions of this section are intended by the city to be an exercise of the authority granted pursuant to M.S. § 462.358, Subd. 2(b) to require that a reasonable portion of any proposed subdivision of lands within the city be dedicated to the public as park lands; or that a reasonable cash payment be received from the developer in lieu thereof in order to facilitate development of similar facilities.

(C) Scope. The provisions of this section shall apply to a person who applies for a subdivision of land (where, as determined by the city, the proposed subdivision causes an increased demand on city parks), regardless

of the intended use of land, whether residential, commercial, industrial or other.

(D) Parks and open spaces.

(1) All developers, landowners, or persons requesting subdivision of land shall convey to the city, or dedicate to the public use, a percentage of such land for the public use as parks, playgrounds, trails or open space. The city, at its discretion, may require cash in lieu of land to be dedicated or a combination of land and cash dedication, as established in the city's fee schedule and adopted by the City Council from time to time.

(a) City's deposit of funds. Sums of money so received by the city shall be placed in a special account to be known as the "Park Fund" and allocated by the City Council solely for the development of park land. Eligible expenditures shall include the acquisition of land, purchase of equipment, construction of facilities, development of existing parks and recreational areas, or debt retirement in connection with such improvements previously expended.

(b) Park dedication requirements (see city fee schedule).

(c) Park land calculation. In determining the amount of park land that must be dedicated for a specific subdivision, the following shall not be included within the calculation unless an exception is granted by the City Council based upon the appropriateness given the intended use of the dedicated land: land within an existing watercourse; land within a 100-year floodway or floodplain; land within a drainage easement or stormwater ponding area; or land shown as being within a wetland, as shown on the National Wetlands Inventory or wetland delineation study, when available.

(d) Dedication requirements. Dedication requirements for minor subdivisions and 1 in 40 lot splits shall be the park and trail cash dedication set forth in the city's fee schedule. Homes existing prior to July 25, 2006, shall not be charged a park dedication fee when a subdivision takes place. The subdivided property shall be subject to additional dedication requirements upon further subdivision thereof.

(2) In the event that the developer objects to the required fee, the city shall, at the developer's request and expense, conduct a specific dedication study of the park system and the increased demand that the city determines will likely be placed on the park system if the proposed plat is approved.

(E) Lands for public use. Pursuant to M.S. § 462.358(2)(b), as amended, and this section, all owners or developers, as a prerequisite to approval of a plat, subdivision or development of any land, shall convey to the city, or dedicate to the public use, a reasonable portion of any such land for public use as streets, roads, sewers, electric, gas and water facilities, storm water drainage and holding areas or ponds, similar utilities and improvements or

parks, playgrounds, trails or open space, such portions to be approved and acceptable to the city.

(F) Dedicated land requirements. Any land to be dedicated as a requirement of this section shall be reasonably adaptable for its proposed use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, tree cover, access and location.

(G) Miscellaneous requirements for park dedications. The following requirements shall apply to all dedications or conveyances for park, playground, trail or public open space purposes:

(1) Land conveyed or dedicated pursuant to provisions of this section shall, at the option of the City Council, be located outside of drainageways, floodplains and ponding areas after the site has been developed.

(2) Standards for location: the Park Board shall make a recommendation to the Planning Commission prior to preliminary plat approval, as to the location and type of park facility required for each development. The Park Board shall consider the City's Comprehensive Plan for other resources and site development in making its recommendation.

(3) Land areas so conveyed or dedicated for park, playground, trail and open space purposes may not be used by an owner or developer as an allowance for purposes of calculating the density requirements of the development as set out in the Zoning Code (Chapter 155) and shall be in addition to and not in lieu of open space requirements for planned unit developments pursuant to the Zoning Code, as amended.

(H) Open space privately owned. Open space privately owned and maintained shall not be given credit for park land dedication. Where private open space for park, playground, trail, open space or other recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, the following standards shall be met:

(1) All yards, court areas, setbacks and other open space required to be maintained by the Zoning Code shall not be included in the computation of such private open space.

(2) The private ownership and maintenance of the open space shall be adequately provided for by written agreement.

(3) The private open space shall be restricted for park, playground, trail, open space or recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be eliminated without the consent of the City Council.

(4) The proposed private open space shall be reasonably adaptable for use for such purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space.

(I) Marketability; evidence of good title. Prior to such park land dedication, the developer shall deliver to the City Attorney a title commitment issued by a recognized issuer of title policies in the state establishing that the developer has marketable title to the land intended to be dedicated or conveyed for park land purposes. No subdivision of the land shall be approved until the City Attorney has determined that the developer has good and marketable title to the land intended to be dedicated or conveyed to the city as park land.

(J) Taxes and special assessments. The city shall not be responsible for the payment of any special assessments levied against or otherwise attributable to the land proposed to be dedicated or conveyed to the city for park land purposes. Any special assessment shall be paid by the developer prior to the dedication or conveyance of the land to the city.

(Ord. 111, passed 12-23-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 121, passed 2-23-99; Am. Ord. 126, passed - - ; Am. Ord. 0101, passed 12-11-01; Am. Ord. 0401, passed 1-13-04; Am. Ord. 0501, passed 2-8-05; Am. Ord. 0601, passed 1-10-06; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1603, passed 3-8-16)

REQUIRED BASIC IMPROVEMENTS

§ 154.105 INTERPRETATION.

All of the required improvements specified in this section shall be constructed in accordance with the state building code and all other applicable city, county, and state regulations, policies and guidelines.

(Ord. 111, passed 12-23-97; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.106 PROCEDURE.

(A) Whenever improvements are required to be installed, the owner and applicant shall first execute a development agreement approved by the city embodying the terms and conditions of the approval given by the City Council and including, but not limited to, requirements set forth in this chapter.

(B) Deposit by owner or applicant. In order to cover the legal, engineering and administrative costs and expenses incurred by the city in connection with the review and approval of the subdivision and the inspection of the actual installation and construction of the improvements, the owner or applicant shall, before recording the final plat of the subdivision, deposit with the city cash, certified check or money order made payable to the City of St. Michael in an amount equal to \$3,000 or 5% of the Engineer's estimate of the cost of construction of the improvements, whichever is greater. The purpose and use of the escrow deposit is subject to city policy as adopted by the City Council from time to time.

(C) No owner or applicant shall be permitted to start work on any improvements without providing the city a financial security consistent with city policy as adopted by the City Council from time to time, guaranteeing that the improvements will be installed in accordance with all laws, rules, regulations and policies and as approved by the city. The amount of the financial security shall be equal to 125% of the City Engineer's estimate of the total cost of the improvements to be installed, all as set forth in the development agreement.

(D) All required improvements to be installed under the provisions of this chapter shall be inspected and approved by the City Engineer during the course of construction.

(E) Prior to any public improvement being accepted by the city, or private improvement being approved by the city, as hereinafter provided, the applicant shall post a maintenance bond and/or other security in a form acceptable to the city naming the city as obligee in an amount deemed appropriate by the City Council to insure maintenance of the improvements for a period of at least 24 months from the date of acceptance or approval by the city.

(F) The owner or applicant shall continue to be responsible for defects, deficiencies and damage to improvements during development of the subdivision. No inspection approval or release of funds from the construction deposit as to any component or category shall be deemed to be city final approval of improvement or otherwise release the applicant of its obligation relating to the completion of the improvements until the final subdivision release on all improvements and maintenance is issued by the City Council declaring that all improvements have in fact been constructed as required. Inspection and acceptance or approval of any or all required improvements shall not constitute acceptance of the improvement by the city as an improvement for which the city shall bear any responsibility.

(G) The applicant shall provide to the city as-built drawings of all improvement.

(Ord. 111, passed 12-23-97; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

§ 154.107 CITY INSTALLATION.

(A) Any person desiring to have improvements installed may request the city to install them, if the request is accompanied by a written petition signed by 100% of the landowners pursuant to M.S. Chapter 429 and a waiver of assessment appeal. Acceptance of the request shall be discretionary on the part of the City Council, based on benefit to property owners, and subject to the following conditions and as authorized by state law. If approved by the Council, the city may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the benefitted land, except any land which is or shall be dedicated to the public.

(B) Subsequent to approval by the Council and before execution by the city of the final plat or other appropriate forms of city approval, the owner or applicant shall submit to the city a letter of credit or cash deposit ("security") which guarantees payment of special assessments levied as a result of improvements installed by the city pursuant to this chapter. The form, type, issuer and amount of security shall be approved by the city and consistent with city policy as adopted by the City Council from time to time.

(Ord. 111, passed 12-23-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1603, passed 3-8-16)

§ 154.108 MONUMENTS AND SURVEY REQUIREMENTS.

(A) Official monuments, as designated and adopted by the County Surveyor's Office and approved by the County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

(B) Proper survey monumentation shall be placed at each lot corner and points of curvature and tangency along street rights-of-way. All United States, state, county, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining

to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

(C) To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of certificate of occupancy as provided for in the City Zoning Ordinance, as may be amended.

(D) All lot corners and survey control monuments shall be set and in place at the time the plat is recorded. An exception to this requirement may be granted for up to one year by the City Council,

provided approval is made part of the development contract and a financial guarantee in a form determined by the City Attorney is provided.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.109 STREETS.

(A) The full width of the right-of-way shall be graded in accordance with the provisions for construction as outlined in §§ 154.080 et seq.

(B) All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.

(C) All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right-of-way outside the area surfaced shall be seeded or sodded by the developer. Streets shall be accepted by the city upon the completion of the first lift of bituminous. Until the completion of the first lift and acceptance by the city, occupancy permits shall be withheld. The second lift of bituminous shall be completed not less than one year following completion of the first lift unless otherwise approved in writing by the City Engineer.

(D) Where required, the concrete curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

(E) Boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

(F) Street signs of the design approved by the City Council shall be installed at each street intersection.

(G) The Planning Commission and/or City Council may require the provision of sidewalks on arterials and collectors and other streets in proximity to public service areas such as parks, schools, or shopping facilities or in other appropriate locations of a similar nature. The design of the sidewalks shall be considered in their relation to existing and planned sidewalks, to reasonable circulation of traffic, to topographic conditions, to run-off of storm water, and to the proposed uses of the area to be served.

(H) Street lighting fixtures as may be required by the City Council shall be installed.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.110 WATER AND SEWER.

Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications of the Joint Powers Board as required by the City Council and subject to the approval of the City Engineer and the Joint Powers Board Engineer (see City of St. Michael Engineering Guidelines).

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.111 DRAINAGE.

(A) The grade and drainage requirements for each subdivision shall be approved by the City Engineer at the expense of the applicant. Every subdivision presented for final signature shall be accompanied by a certificate of the City Engineer that the grade and drainage requirements have been met on the grading plan. In an area not having municipal storm sewers, the applicant shall be responsible, before subdividing, to provide for a storm water disposal plan, without damage to properties outside the subdivided area, and the storm water disposal plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No subdivision shall be approved before an adequate storm water disposal plan is presented and approved by the City Council. The use of dry wells for the purpose of storm water disposal is prohibited.

(B) Storm drainage facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer. In providing the facilities, specific attention shall be given to culvert locations, trash guards, riprap, and in-place storm drainage facilities.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.112 UTILITIES.

Telephone, electric, cable TV, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable city ordinances and code provisions. All necessary utility easements must be recorded prior to utility installation.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.113 TRAILS.

Trails shall be established in accordance with the requirements set forth in § 154.085(F).

(Ord. 111, passed 12-23-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.998 VIOLATIONS.

(A) Sale of lots from unrecorded plats. It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat of any subdivision or area located within the jurisdiction of this chapter unless the plan, plat, or replat shall have first been recorded in the office of the County Recorder.

(B) Receiving or recording unapproved plats. It shall be unlawful for a private individual to receive or record in any public office any plans or plats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

(C) Misrepresentations. It shall be a misdemeanor for any person owning an addition or subdivision of land within the city to represent that any improvement upon any of the streets, alleys, or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised, or inspected.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16) Penalty, see § 154.999

§ 154.999 PENALTY.

Anyone violating any of the provisions of this chapter shall be guilty of a misdemeanor and be punished as provided in § 10.99. Each month during which compliance is delayed shall constitute a separate offense.

(Ord. 111, passed 12-23-97; Am. Ord. 1603, passed 3-8-16)

CHAPTER 155: ZONING

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- Culverts, see § 93.02
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GENERAL PROVISIONS

§ 155.001 TITLE.

Except where otherwise provided, this chapter shall be known as the “St. Michael Zoning Ordinance” except as referred to herein, where it shall be known as “this chapter.”

(Ord. 110, passed 11-15-97)

§ 155.002 PURPOSE.

The purpose of this chapter is to provide for the orderly, economic, and safe development of land and urban services and facilities and to promote the public health and safety by protecting against fire, explosion, noxious fumes, offensive noise, dust, odor, heat, glare, and other pollution of the air

and to promote the general welfare of the inhabitants of the city. That purpose is accomplished, in part, by dividing the city into zones or districts as to the location, construction, reconstruction, alteration, and use of land and structures for residence, business, and industrial purposes and by fixing reasonable standards to which buildings, structures, and land shall conform for the benefit of all.

(Ord. 110, passed 11-15-97)

§ 155.003 POLICY.

It is the policy of the city that the enforcement, amendment, and administration of this chapter be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time-to-time by the City Council of the city. The Council recognizes the Comprehensive Plan as the policy guide responsible for regulation of land use and development in accordance with the policies and purpose herein set forth.

(Ord. 110, passed 11-15-97)

§ 155.004 INTERPRETATION; CONFLICTS.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance, code provision, or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance, code provision, or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance, code provision, or regulation shall be controlling.

(Ord. 110, passed 11-15-97)

§ 155.005 EFFECT ON PRIVATE AGREEMENTS.

This chapter is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements on such easements, covenants, or other private agreements, the requirements of this chapter shall govern.

(Ord. 110, passed 11-15-97)

§ 155.006 COMPLIANCE REQUIRED.

No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged, nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.007 USES NOT PROVIDED FOR.

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council, on its own initiative or upon request, may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate, and determine the conditions and standards relating to development of the use. The City Council or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the city.

(Ord. 110, passed 11-15-97)

§ 155.008 AUTHORITY FOR PROVISIONS.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 through 462.363.

(Ord. 110, passed 11-15-97)

§ 155.009 DEFINITIONS.

(A) Rules of construction. The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

(1) The singular number includes the plural, and the plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word "shall" is mandatory while the word "may" is permissive.

(4) The masculine gender includes the feminine and neuter.

(5) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in the definition thereof.

(6) All measured distances expressed in feet shall be the nearest tenth of a foot.

(B) Definitions.

(B) Definitions.

ABUTTING. Making direct contact with or immediately bordering.

ACCESSORY BUILDING. A subordinate building or structure on the same lot, or part of the main building, exclusively occupied by or devoted to a use incidental to the main use.

ACCESSORY USE or ACCESSORY STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADDITION. A physical enlargement of an existing structure.

ADJACENT. In close proximity to or neighboring, not necessarily abutting.

ADULT EDUCATION AND TRAINING FACILITY. A place where education or instruction is regularly provided to groups of persons aged 18 or older in areas including, but not necessarily limited to, the following: Training in adult literacy, employment skills or personal improvement; assembly or production; business or clerical; computers; cosmetology or hair styling; electronics or mechanics; real estate; or skilled crafts.

ADULT USE. Includes adult bookstores, adult motion picture theaters, adult motion picture sales/rentals, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS which are capable of being seen by members of the public. Activities classified as obscene as defined by M.S. § 617.241, as may be amended, are not included.

(a) **ACCESSORY ADULT USES.** The offering of retail goods for sale which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.

(b) **PRINCIPAL ADULT USES.** The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment, including, but not limited to, the following:

1. **BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of SPECIFIED ANATOMICAL AREAS.

2. **BOOKSTORE.** A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

3. **CABARET** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

4. **COMPANIONSHIP ESTABLISHMENT.** A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

5. **CONVERSATION/RAP PARLOR.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

6. **HEALTH/SPORT CLUB.** A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by

an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

7. HOTEL or MOTEL. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

8. MASSAGE PARLOR or HEALTH CLUB. A massage parlor or health club which restricts minors by reason of age, and which provides the service of massage, if such service is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

9. MINI-MOTION PICTURE THEATER. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS for observation by patrons therein.

10. MODELING STUDIO. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in SPECIFIED SEXUAL ACTIVITIES or display SPECIFIED ANATOMICAL AREAS while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

11. MOTION PICTURE ARCADE. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

12. MOTION PICTURE THEATER. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS for observation by patrons therein.

13. NOVELTY BUSINESS. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

14. SAUNA. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

15. STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

AGRICULTURAL BUILDING. A building or structure that is:

(a) Located on agricultural land as determined by the governing assessor for the city;

(b) Designed, constructed, and used to house farm implements, livestock or agricultural products under M.S. § 273.13, Subd. 23; and

(c) Used by the owner, lessee, and sublessee of the building and member of their immediate families, their employees, and persons engaged in the pick-up or delivery of agricultural products.

AGRICULTURAL STRUCTURE. A structure or building supportive and/or ancillary to an authorized on-site agricultural use as defined in this section.

AGRICULTURAL USE. The use of land for agricultural purposes including farming, dairying, pasturing, agriculture, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property.

APARTMENT. A room or suite of rooms, located in a one-or two-family structure or a multiple dwelling, which includes a bath and kitchen

accommodations, and is intended or designed for use as an independent residence by an individual or family.

APARTMENT BUILDING. A multiple-family dwelling originally designed and constructed to accommodate three or more apartments, designed with more than one dwelling unit connecting to a common corridor or entrance way, in contrast to single- or two-family dwellings converted for multiple-family use.

ASSEMBLY. A group of persons gathered together at regular, scheduled intervals for a particular purpose (e.g. religious, political, educational, social or cultural). Types of assemblies include movie theaters, concert halls, places of worship, funeral homes, schools, conference centers and the like.

AUTOMOBILE REPAIR.

(a) **MAJOR AUTOMOBILE REPAIR.** General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; collision service, including body, frame, or fender straightening or repair; overall painting or paint jobs; and vehicle steam cleaning.

(b) **MINOR AUTOMOBILE REPAIR.** Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 12,000 pounds gross weight, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE WASH. A building or buildings or portions thereof containing facilities for washing one or more automobiles by use of mechanical devices.

AUTOMOBILE WRECKING YARD or JUNKYARD. Any place where two or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise.

AUXILIARY USE. A use which, on its own, is capable of being a separate, principal use, unlike an accessory use, but is designed or planned to function as supplementary but complementary to a principal use together in the same building or on the same site. An auxiliary use must be a permitted or conditional use in the zoning district in which it is located.

AWNING. A temporary hood or cover which projects from the wall of a building, and of a type which can be retracted, folded, or collapsed against the face of a supporting building.

BALCONY. A landing or porch projecting from the wall of a building, and which serves as a means of egress.

BANQUET/CONFERENCE/MEETING/PARTY ROOMS - SEASONAL. Buildings or facilities used to conduct banquets, meetings, or conferences, which are not a restaurant, but where, for purposes of events food and beverages may be served, for up to 300 persons, an average of two times per month on a limited seasonal basis.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BLOCK. That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad rights-of-way or unsubdivided acreage.

BLUFF. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- (a) Part or all of the feature in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDING HOUSE. A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided to three or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten persons.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BOG. A Type 8 Wetland as defined by U.S. Fish and Wildlife Circular 39.

BOULEVARD. The portion of a street right-of-way not occupied by pavement.

BREW PUB. A restaurant operated by a brewer licensed under M.S. § 340A.301, Subd. 6d on the microbrewery's premises of manufacture.

BUFFER STRIP. An area of vegetated ground cover abutting a wetland that, either in its condition or through intervention, has the characteristics identified in § 155.344.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

BUILDING. A structure having a roof supported by columns or walls. When separated by division walls without openings, each portion of such building shall be deemed a separate building.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finish grade along the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

BUILDING LINE. A line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.

BUILDING OFFICIAL. The Building Official provided for in the Minnesota State Building Code.

BUSINESS. Any establishment, occupation, employment, or enterprise where merchandise is manufactured, exhibited, or sold, or where services are offered for compensation.

CARPORT. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three sides.

CELLAR. That portion of a building having more than one-half of the floor to ceiling height below the average land grade.

CEMETERY. Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, columbaria, chapels and mortuaries if operated in connection with and within the boundaries of such cemetery.

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CITY COUNCIL. The governing body for the City of St. Michael.

CLUB or LODGE. A non-profit association of persons who are bona fide members paying annual dues, the use of whose premises is restricted to members and their guests.

CLUSTER DEVELOPMENT. A planned unit development consisting only of residential units.

COMMERCIAL RECREATION - INDOOR. A bowling alley, car track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, fire arms range, amusement ride, and similar uses whose activities occur inside a building.

COMMON OPEN SPACE. Any privately owned open space including private parks, nature areas, playgrounds and trails, including accessory recreational buildings and structures which are an integral part of a development.

COMMUNITY CENTER. A meeting place used by members of a community for social, cultural, or recreational purposes.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: certain conditions as detailed in the zoning ordinance exist; and the structure and/or land use conforms to the comprehensive land use plan if one exists and is compatible with the existing neighborhood.

CONDITIONAL USE PERMIT. A permit issued by the Council, in accordance with procedures specified in this chapter, as a flexibility device to enable the Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM. A multi-family dwelling whereby the fee title to each dwelling unit is held independently of the others.

CONVENIENCE FOOD ESTABLISHMENT. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on and off the premises.

CORNICE. A horizontal molded projection that crowns or completes a building or wall.

DAY CARE.

(a) **GROUP FAMILY DAY CARE.** Day care for no more than 14 children at any one time within a residence. The total number of children includes all children of any caregiver when the children are present in the residence.

(b) **DAY-CARE CENTER, GROUP DAY-CARE CENTER and DAY-CARE FACILITY.** Any facility, public or private, which for economic gain or otherwise regularly provides one or more persons with care, training,

supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to, family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services.

DECK. A flat-floored, roofless platform adjoining a dwelling, used primarily for recreation.

DEPARTMENT STORE. A business that is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed, exhibited, and sold directly to the customer for whom the goods and services are furnished.

DEPOSITION. Any rock, soil, gravel, sand, or other material deposited naturally or by man into a water body, watercourse, floodplain, or wetland.

DEVELOPABLE AREA. All land that could potentially be available for development, except land considered to be un-buildable such as delineated wetlands, floodplains, and land burdened by road or power line easements.

DISTRICT. A section or sections of the city for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DITCH. An open channel to conduct the flow of water.

DIVERSION. A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

DRAINING. The removal of surface water or ground water from land.

DREDGING. Enlarging or cleaning out a water body, watercourse, or wetland.

DRIVEWAY. A private drive to an off-street destination such as a garage or parking area providing access for motor vehicles from a public way or driveway approach.

(a) DRIVEWAY ACCESS (Curb Cut). An area between the curb or pavement edge of a public street and the private property line intended to provide access for vehicles from a roadway or public street to a driveway on public property.

(b) OFF-DRIVE PARKING AREA. An off-street area connected to a driveway intended for the parking of vehicles.

(c) TURN AROUND PAD. An off-street area connected to a driveway intended to allow vehicles to turn around on site and exit onto roadways in a forward facing position.

DWELLING. A building or portion thereof designed or used exclusively for residential occupancy, including one-family, two-family, and multiple-family dwelling units, but not including hotels or motels.

(a) APARTMENT DWELLING. A building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other, but sharing hallways and main entrances and exits.

(b) MULTIPLE-FAMILY DWELLING. Three or more dwelling units grouped into one building.

(c) QUADRAMINIUM. A single structure which contains four separately owned dwelling units, all of which have individually separate entrances and in which each unit shares common walls with two other units.

(d) SINGLE-FAMILY DWELLING. A dwelling unit not attached to another dwelling or structure and designed exclusively for occupancy by one family.

(e) TOWNHOME OR TOWNHOUSE. A single structure consisting of three or more dwelling units having the first story at or near the ground level with no other dwelling unit connected to another dwelling unit except by a party wall with no openings.

(f) TWO-FAMILY DWELLING. A dwelling designed exclusively for occupancy by two families living independently of each other.

1. DOUBLE BUNGALOW. A two-family dwelling with two units side by side.

2. DUPLEX. A two-family dwelling with one unit above.

DWELLING SIZE. The square footage of the lot which is covered by a dwelling unit computed by multiplying the outside measurements of the dwelling. In computing the square footage, the measurements shall exclude the dimensions of any garage. This term is to be distinguished from "floor area."

DWELLING UNIT. A residential building or portion thereof intended for occupancy by one family or group of single adults for living or sleeping purposes, and having one kitchen. This does not include hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes, or trailers.

(a) EARTH-SHELTERED DWELLING UNIT. A structure which complies with applicable building standards and which is constructed so that:

1. Eighty percent or more of the roof area is covered with a minimum depth of 12 inches of earth; and
2. Fifty percent or more of the wall area is covered with a minimum depth of 12 inches of earth.

EAVES. The projecting overhang at the lower edge of a roof.

EFFICIENCY APARTMENT. A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

ELDERLY (SENIOR CITIZEN) HOUSING. A public-agency-owned or -controlled multiple-dwelling building with open occupancy limited to persons over 60 years of age.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit tables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

EXTERIOR STORAGE. The storage of goods, materials, equipment, tools, vehicles, manufactured products and similar items not fully enclosed by a building. Currently licensed and operable vehicles parked in required off-street parking spaces shall not be viewed as exterior storage.

FAMILY. One or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FAMILY DAY CARE. Day care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

FENCE. Any partition, structure, wall, or gate erected as a dividing marker, barrier, or enclosure.

(a) BOUNDARY LINE FENCE. A fence located within five feet of a property line.

(b) INTERIOR YARD FENCE. A fence located five feet beyond a property line.

FILLING. The act of depositing any rock, soil, gravel, sand, or other material so as to fill or partly fill a water body, watercourse, or wetland.

FIREWORKS. As defined by Minnesota State Statute.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

FLOOD FRINGE. That portion of the flood plain outside of the floodway. FLOOD FRINGE is synonymous with the term "floodway fringe" used in the Flood Insurance Study for St. Michael, Minnesota.

FLOOD PLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA. The floor area of a building is the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

GARAGE. An accessory building designed or used for the storage of automotive, motor- driven vehicles owned and used by the occupants of the building to which it is accessory.

GRADE (ADJACENT GROUND ELEVATION). The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

GRADE, FINISHED. The final elevation of the ground surface after man-made alterations, such as grading, grubbing, filling, mounding, or excavating, have been made on the ground surface.

GRADE, NATURAL. The natural grade or elevation of the ground surface that existed prior to man-made alterations such as grading, grubbing, filling, mounding or excavating.

GRADING. Changing the natural or existing topography of land.

HOME OCCUPATION. Any occupation or profession engaged in by the occupants of the residential dwelling, or accessory building, which is clearly incidental and secondary to the residential use of the premises and does not change the character of the premises; and when conducted within the dwelling or accessory building, or when conducted upon a parcel of land containing the dwelling unit, provided that the evidence of the occupation is not visible from the street pursuant to § 155.065.

(a) HOME OCCUPATION, SPECIAL. A home occupation which does not meet the requirements of a permitted home occupation and requires approval of a special home occupation permit pursuant to § 155.065(C)(2), (D)(1) and (D)(2).

(b) HOME OCCUPATION, EXTENDED BUSINESS. A home occupation which is conducted in the A-1 zoning district and whose purpose is to prevent competition with the business districts through a means of establishing specific standards and procedures pursuant to § 155.066.

HYDROPERIOD. The extent and duration of inundation and/or saturation of wetland systems.

IMPERVIOUS SURFACE. An artificial or natural surface through which water, air, or roots cannot penetrate.

JUNK or REFUSE. Any scrap, waste, reclaimable material, or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storing, baling, disposal, or other use or disposition. JUNK includes vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

JUNKYARD. (See Automobile Wrecking Yard.)

KENNEL.

(a) COMMERCIAL KENNEL. Any place where more than two dogs over six months of age are kept, and where the business of selling, boarding, breeding, showing, or grooming of dogs or other animals is conducted, with the exception of veterinary clinics.

(b) RESIDENTIAL KENNEL. Any place where more than two dogs over six months of age are kept on premises which are zoned and occupied for residential purposes, and where the keeping of such dogs is incidental to the occupancy of the premises for residential purposes.

KITCHEN. A habitable room intended to be used for the cooking of food or the preparation of meals.

LAND RECLAMATION. The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, and soil suitability and the establishment of safe conditions appropriate to the subsequent use of the land.

LOADING SPACE. That portion of a lot or plot designed to serve the purpose of loading and/or unloading all types of vehicles.

LODGE. (See Club)

LODGING HOUSE. A building, other than a hotel, where for compensation for definite periods lodging is provided for three or more persons not of the principal family, but not including a building providing this service for more than ten persons.

LOT. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

(a) BASE LOT. A lot meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.

(b) CORNER LOT. A lot situated at the junction of and abutting on two or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 135° or less.

(c) DOUBLE FRONTAGE LOT. An interior lot having frontage on two streets.

(d) INTERIOR LOT. A lot other than a corner lot, including through lots.

(e) THROUGH LOT. A lot fronting on two parallel streets.

(f) UNIT LOT. A lot created from the subdivision of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

LOT AREA. The area of the horizontal plane within the lot lines. For purposes of determining accessory space, the lot area shall exclude all property within the ordinary high water level or boundary of all wetlands,

streams, lakes, rivers, or storm water ponds. It shall also exclude any road easement for all parcels created after June 1, 2006.

LOT AREA PER UNIT. The lot area required by this chapter to be provided for each family in a dwelling.

LOT DEPTH. The shortest horizontal distance between the front lot line and the rear lot line measured from a 90° angle from the street right-of-way within the lot boundaries.

LOT FRONTAGE. The front of a lot shall be, for purposes of complying with this chapter, that boundary abutting a public right-of-way having the least width.

LOT IRREGULAR. Any interior lot where the opposing property lines are generally not parallel, such as a pie-shaped lot on a cul-de-sac, or where the lot lines have unusual elongations, angled, or are curvilinear, often due to topography or other natural land features.

LOT LINE. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

LOT OF RECORD. Any lot which is part of a subdivision the plat of which has been recorded in the County Recorder's Office, or a lot described by metes and bounds the deed to which has been recorded in the County Recorder's Office, at the time this chapter becomes effective.

LOT WIDTH. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth measured at the required minimum building setback line.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily filed a certification required by the Secretary of the United States Department of Housing and Urban Development and which complies with the standards established under §§ 155.001 et seq. and §§ 155.020 et seq.

MANUFACTURING. All uses which include the compounding, processing, packaging, treatment, or assembly of products and materials,

provided such uses do not generate offensive odors, glare, smoke, dust, noise, vibrations, or other objectionable influence.

MEDICAL AND DENTAL CLINIC. A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

MICROBREWERY. A facility that is operated by the holder of a brewer's license issued under M.S. § 340A.301 and manufacturers and distributes intoxicating malt liquor or wine in a total quantity not to exceed 250,000 barrels a year.

MINI-STORAGE. A structure or structures containing separate storage spaces of varying sizes, which are leased or rented individually. An office, for rental and operations of the units, may be attached to such structures.

MNRAM. The Minnesota Routine Assessment Methodology (MnRAM) as referenced in Minnesota Rules 8420. MnRAM is a field tool used to assess wetland functions on a qualitative basis. Functions include floral diversity and integrity; wildlife habitat; water quality protection; flood and stormwater attenuation; recreation, aesthetics, education and science; fishery habitat; shoreline protection; groundwater interaction and commercial uses.

MOBILE HOME. A detached residential dwelling unit designed for transportation on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered a "mobile home."

MOTEL or MOTOR HOTEL. A building or group of detached, semidetached, or attached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building or corridor, with garage or parking space conveniently located to each unit, and which is designed, used, or intended to be used primarily for the accommodation of transient guests traveling by automobile.

MOTOR FUEL STATION. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease for operation of automobiles are retailed directly to the public on the premises, and including minor accessories and services for automobiles, but not including major repairs and rebuilding.

(a) **AUTOMOBILES.** Any motor vehicle not exceeding 26,000 pounds gross weight.

MOVIE THEATER. A building with individual rooms for viewing motion picture shows.

NATURAL DRAINAGE SYSTEM. All land surface areas which by nature of their contour configuration collect, store, and channel surface water runoff.

NONCONFORMITIES. Uses, structures, or lots that do not comply with the current zoning ordinance.

(a) **LEGAL.** Any structure or use which lawfully existed at the time of the passage of this chapter, but does not conform to the regulations of this chapter.

(b) **ILLEGAL.** Any structure or use which did not conform to the regulations of this chapter at the time it was established or does not conform to the regulations of this chapter.

NURP POND. A stormwater pond constructed to meet National Urban Runoff Program (NURP) requirements.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OFF-SITE SERVICES. A company that provides labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer service and other uses of similar character.

OPEN SALES LOT. Any open land used or occupied for the purposes of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

OPEN SPACE. (See "Usable Open Space")

OPEN SPACE DEVELOPMENT. A type of subdivision that allows the grouping of residential lots on smaller lots in order to use the extra land as open space or recreation in perpetuity.

ORDINARY HIGH WATER MARK. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ORDINARY HIGH WATER MARK is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ORDINARY HIGH WATER MARK is not evident, setbacks shall be measured

from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.

OUTDOOR TEMPORARY SEASONAL SALES. A short-term display and/or sale of seasonal products such as the following: Christmas trees, nursery products and horticulture products (fruits, vegetables, flowers, shrubs and the like).

PARKING RAMP. An accessory structure designed and used for the storage of motor vehicles at, below, and/or above grade.

PARKING SPACE. A land area containing the space usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley.

PATIO/PLATFORM - GROUND LEVEL. A structure made of concrete, brick, wood, or other building materials, with a height of eight inches or less from ground level from any point of the structure, and is not attached to a principal or accessory structure.

PERFORMANCE STANDARD. A criterion established for setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage, or to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in uses of land or buildings.

PERMITTED USE. A use which is generally compatible with the basic use classification of a particular zone and is to be allowed within the zone subject to the requirements of this chapter and other ordinances and code provisions of the city.

PERSON. An individual, firm, partnership, association, corporation, or organization of any kind.

PLACE OF WORSHIP. A building, together with its accessory buildings and uses, where persons assemble at regular intervals for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship, including, but not limited to, churches, chapels, temples, mosques, and synagogues. Examples of accessory uses for a place of worship include, but are not limited to, classrooms for religious instruction, kitchens, banquet and meeting rooms, and offices in support of the worship use. Examples of auxiliary uses which are not considered a place of worship: coffee shops, day cares, restaurants, outdoor sports or recreational complexes, retreat homes, publishing establishments, schools, hospitals and drug treatment centers.

PLANNED UNIT DEVELOPMENT. An urban development having two or more principal uses or structures on a single lot and developed according to an approved plan. Where appropriate, this development control advocates:

- (a) A mixture of land uses, one or more of the non-residential uses being regional in nature;
- (b) The clustering of residential land uses providing common and public open space, the former to be maintained either by the residents of the development or the local community; and
- (c) Increased administrative discretion in a local professional planning staff and the setting aside of present land use regulations and rigid plat approval processes.

PLANNING COMMISSION. The St. Michael Planning Commission, except when otherwise designated.

PLOT. A tract, other than one unit of a recorded plat or subdivision, occupied and used or intended to be occupied and used as a building site and improved or intended to be improved by the erection thereon of a building and accessory buildings and having a frontage upon a public street or highway and including as a minimum such open spaces as required under this chapter.

PRE-SCHOOL. A public or private institution of children who are pre-kindergarten school age.

PRINCIPAL USE or PRINCIPAL STRUCTURE. A use or structure that is not an accessory use or structure.

PUBLIC USE. A use owned or operated by a municipal, school district, county, state, or other governmental unit.

PUBLIC UTILITY. Any person, firm, corporation, municipal department, or board fully authorized to furnish, and furnishing under municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation, or water.

PUBLIC VALUE CREDIT (PVC). Wetland replacement credit that can only be used for the portion of wetland replacement requiring greater than a one to one ratio of wetland fill to wetland replacement.

PUBLIC WATERS. Any waters of the state which serve a beneficial public purpose, as defined in M.S. § 105.36(6), not including, however, a lake, pond, or flowage of less than ten acres in size or a river or stream having a total drainage area less than two square miles. In addition, bodies of water created by private users where there was no previous shoreland (for a designated private use authorized by the Commissioner of Natural Resources) shall also be considered not public waters and thus exempt from

the provisions of §§ 155.405 through 155.410 of this chapter. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds, or flowage shall be the areas listed in the Division of Minnesota Lakes, or in the event that lakes, ponds, or flowage are not listed therein, official determination of size and physical limits shall be made by the Commissioner in cooperation with the City of St. Michael.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECREATION FIELD or RECREATION BUILDING. An area of land, water, or any building in which amusement, recreation, or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus, or gymnasium is a RECREATION FIELD or RECREATION BUILDING for the purpose of this chapter.

RECREATIONAL VEHICLE. A self-propelled vehicle or trailer which is used primarily for recreational purposes, including but not limited to motor homes, travel trailers, snowmobiles, boats, jet skis, dirt bikes, and ATVs.

REFUSE. (See Junk)

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. REGIONAL FLOOD is synonymous with the term "base flood" used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

RESIDENTIAL CARE FACILITY. Any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24-hour-per-day substitute for the care, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. RESIDENTIAL CARE FACILITIES include, but are not limited to, state institutions under the control of the Commissioner of Public Welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, or schools for handicapped children. To the extent that this definition

conflicts with the provisions of M.S. § 462.357, Subds. 7 and 8, the provisions of state law will control.

RESTAURANT. An establishment which serves food in or on non-disposable dishes and to be consumed primarily while seated at tables or booths within the building.

ROOF LINE. The top of the coping or, when the building has a pitched roof, at the intersection of the outside wall with the roof.

SCHOOL. A public or private institution, together with its accessory buildings and uses, for learning with either a kindergarten, elementary or secondary curriculum with buildings, equipment, courses of study, class schedules, enrollment of pupils and staff meeting the standards established by the state. Examples of accessory uses for a school include, but are not limited to gymnasiums, swimming pools, auditoriums, and offices in support of the school use.

SCIENTIFIC OR NATURAL AREA. An area designated by local, state or federal action as providing unique qualities such as recreational, scientific or educational uses. This would include, but is not limited to areas that:

- (a) Have resources restored for specific purposes, such as water quality improvements, wetland mitigation or wildlife habitat;
- (b) Are recognized as an Outstanding Resource Value Water (Minnesota Rules Chapter 7050);
- (c) Are within an environmental corridor identified in a local water management plans;
- (d) Are part of a sole-source aquifer recharge area;
- (e) Provide endangered species habitat; or
- (f) Have biological communities or species that are listed in the Natural Heritage inventory database.

SCREENING. The presence of an artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.

SEASONAL PORCH. A structure attached to the principal structure, designed to be used during the warmer seasons and which may contain partial wall construction and a roof, but contains no enclosed space above or below, and is not equipped with windows or heating and cooling systems.

SEASONAL STORAGE. Indoor storage of personal recreational items or equipment in any agricultural building(s) where more than 25% of the

building is used at any time for the purpose of renting or leasing indoor storage space, and is open to the public on a limited seasonal basis.

SEMI-PUBLIC USES. Uses by private or private, non-profit organizations which are open to some but not all of the public such as denominational cemeteries, private schools, clubs, lodges, recreation facilities, churches, etc.

SETBACK LINE. The mean horizontal distance between the property line and the line of the building or the allowable building line as defined by the yard regulations of this chapter.

SHOPPING CENTER. An integrated grouping of commercial stores, under single ownership or control.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SIDE YARD. That part of a lot between the side line of the lot and the nearest line of the building located on the lot and extending from the rear lot line of the lot to the front yard.

SITE PLAN. A map drawn to scale depicting the development of a tract of land, including but not limited to the location in relationship of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, and walkways as related to a proposed development.

SLOPE. The degree of deviation of a surface from the horizontal usually expressed in percent or degree.

(a) STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

SPECIFIED ANATOMICAL AREAS.

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(b) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(c) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;

(d) Situations involving a person or persons, any of whom are nude or clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons;

(e) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or

(f) Human excretion, urination, menstruation, or vaginal or anal irrigation.

SPORTS TRAINING. A gymnastics, martial arts, aerobics, exercise and dance studios, and similar uses, but does not include fitness centers serving customers on an individual basis.

STANDBY OR BACKUP ELECTRICAL POWER GENERATION UNIT. An electrical power generation unit that is operated only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. The unit must be a UL approved listed appliance meeting state decibel levels in and abutting residential districts. This unit shall not supply electrical power as supplemental electricity in case the electrical service has been shut off to the dwelling unit, and shall not emit fumes or gas.

STORY. That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if no such floor is above, the space between such floor and the ceiling next above it.

(a) **HALF STORY.** A space under a sloping roof where the line intersecting the roof decking and wall face is not more than three feet above the top floor level, and in which space not more than two-thirds of the

floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

STREAM. A natural channel or bed that conducts a flow of water, as in a brook or creek.

STREET. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane or place or however otherwise designated.

STREET FRONTAGE. The proximity of a parcel of land to one street. A corner lot has two frontages.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, pergolas, decks, gazebos, travel trailers/vehicles not meeting the exemption criteria and other similar items.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

SUBDIVISION. The division of a single plot, tract, or parcel of land, or a part thereof, into two or more lots, tracts, or parcels of land for the purpose of either immediate or future transfer of ownership for residential, commercial, or industrial purposes; or the division of a single lot, tract, or parcel of land into two parking areas or leaseholds for the purpose of either immediate or future building development for residential, commercial, or industrial purposes; provided such division does not result in a violation of any other section of this chapter or any other ordinance or code provision of the city.

TAPROOM. A room that is located on the premises or adjacent to one microbrewery location owned by a licensed microbrewery intended for the on-sale of malt liquor produced on site by the brewer as authorized by M.S. § 340A.301, Subd. 6b.

TERRACE. A platform that is not held up by posts and footings and that projects from the wall of the principal structure, is surrounded by a railing and has no exterior accesses.

TOE OF THE BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50-foot segment with an average slope exceeding 18%.

UPLAND. All lands at an elevation above the normal high water mark.

USABLE OPEN SPACE. A required ground area or terrace area on a lot which is graded, developed, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space.

USE. The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

UTILITY BUILDING. An incidental structure on the same lot with a principal building ordinarily used for storage of lawn, garden, recreational, and maintenance equipment and no larger than 120 square feet in size.

VARIANCE. Variances shall be granted as provided in § 155.442.

VEGETATION. The sum total of plant life in some area; or a plant community with distinguishable characteristics.

(a) **NATIVE VEGETATION.** Plant species indigenous to or naturalized to the state or plant species classified as native in the Minnesota Native Plant Database (Minnesota Dept. of Natural Resources, 2002 or as amended). Native vegetation does not include weeds.

VISUALLY INCONSPICUOUS. Difficult to see or not readily noticeable.

WAREHOUSING. The indoor storage of materials, equipment or products. WAREHOUSING does not include self-storage facilities which are defined separately.

WATER BODY. A body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERCOURSE. A channel or depression through which water flows, such as a river, a stream, or a creek, and may flow year-round or intermittently.

WATERSHED. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WEEDS. Noxious weeds as defined and designated pursuant to the Minnesota noxious weed law, or any volunteer plants, such as but not limited to spotted knapweed (*Centaurea maculosa*) or burdock (*Arctium minus*). For the purpose of this definition, weeds do not include dandelions or clover.

WETLAND ALTERATION. Alteration of a wetland includes changes to the wetland or wetland buffer strip in regards to size, depth or contour; dredging; tilling; ditching; or changes in vegetation. Alterations would not include wetland plantings or selective clearing or pruning of prohibited or restricted noxious weeds as defined in Minnesota Rules 1050.0730 to 1050.0750, unless within a Conservation Easement in which case submission of and approval of a Vegetation Management Plan from the city is required.

WETLAND BUFFER STRIP. An area of vegetated groundcover around the perimeter of a wetland that, either in its natural condition or through intervention, has the characteristics of a buffer as defined in this section.

WETLAND PLAN. A summary of all work items to be completed in relation to any wetland alterations or wetland or wetland buffer strip restoration, replacement, or construction and the estimated cost for each item. Work items include, but are not limited to, wetland buffer strip monument purchase and installation, weed control, landscaping within the wetland or wetland buffer strip, wetland and wetland buffer strip monitoring or any items determined to be incomplete during the development review process.

WETLAND TYPE. Determined in accordance with United States Fish and Wildlife Service (latest circular addition) and/or Minnesota Rules 8420. For wetlands greater than 40 acres in the overall wetland type shall be one of the following:

- (a) The wetland type with the deepest water regime within the wetland and within 300 feet of the impact;
- (b) The wettest dominant water regime, if it is greater than 20% of the wetland types present within the wetland; or
- (c) Other method pre-approved in writing by the Zoning Administrator or his or her designee. For wetlands less than 40 acres in size, the overall wetland type shall be the wetland type with the deepest water regime within the entire wetland.

WETLANDS. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

- (a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge, meadow, shrubland, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.," 1956.)

(b) Mineral soils with gley horizons or organic soils belonging to the Histosol order (peat and muck).

(c) Soil which is water-logged or covered with water at least three months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are WETLANDS, and properly may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a WETLAND is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

WHOLESALE SHOWROOMS. The display of merchandise and sales incidental to and accessory to the principal showroom use to retailers, industrial, commercial, institutional, or professional business users, or to other wholesalers.

WILDLIFE HABITAT. Plant communities that support wildlife in a natural undomesticated state.

YARD. The open, unoccupied space on a lot surrounding its principal building which is unobstructed from its lowest level to the sky, except as otherwise permitted in this chapter.

(a) FRONT YARD. A yard abutting a (public or private) road and extending across the front of the lot between the side lot lines and lying between the front line of the lot and the principal building. For lots fronting on public bodies of water the front yard shall be considered the portion of the lot opposite the body of water.

(b) REAR YARD. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

(c) SIDE YARD. A yard between the side line of the lot and the nearest line of the building and extending from the front lot line of the lot to the rear yard.

YARD DEPTH.

(a) REAR YARD DEPTH. The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists; otherwise a rear lot line.

ZONING ADMINISTRATOR. The duly appointed officer charged with the administration and enforcement of this chapter or his or her designated representative.

ZONING DISTRICTS. Areas of the city (as defined on the Zoning Map) set aside for specific uses with the specific requirements for use of development.

ZONING MAP. The map or maps incorporated into this chapter as a part thereof designating the zoning districts.

(Ord. 73, passed 7-24-90; Ord. 110, passed 11-15-97; Am. Ord. 133, passed 10-10-00; Am. Ord. 135, passed 1-9-01; Am. Ord. 0101, passed 12-11-01; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1403, passed 9-9-14; Am. Ord. 1406, passed 11-10-14; Am. Ord. 1407, passed 12-23-14; Am. Ord. 1502, passed 4-8-15; Am. Ord. 1506, passed 9-8-15; Am. Ord. 1602, passed 2-16-16; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20; Am. Ord. 2004, passed 11-10-20; Am. Ord. 2103, passed 12-14-21; Am. Ord. 2203, passed 4-12-22)

GENERAL DEVELOPMENT AND PERFORMANCE STANDARDS

§ 155.020 PURPOSE.

It is the purpose of this subchapter of the Zoning Ordinance to establish general development and performance standards. These standards are intended and designated to assure compatibility of uses; to prevent urban blight, deterioration, and decay; and to enhance the health, safety, and general welfare of the residents of the community.

(Ord. 110, passed 11-15-97)

§ 155.021 DWELLING UNIT USE AND INTERPRETATION.

(A) No cellar, basement, garage, tent, accessory building, or temporary family health care dwelling shall at any time be used as an independent residence or dwelling unit, temporarily or permanently. Pursuant to authority granted by M.S. § 462.3593, Subd. 9 the City of St. Michael opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

(B) Basements may be used as living quarters or rooms as a portion of residential dwellings.

(C) Earth-sheltered housing shall not be considered as a basement or cellar.

(D) Tents, playhouses, or similar structures may be used for play or recreational purposes.

(E) Recreational vehicles may not be occupied or used for living, sleeping or housekeeping purposes, for more than 14 days per calendar year on any given property.

(Ord. 110, passed 11-15-97; Am. Ord. 1605, passed 8-9-16; Am. Ord. 1704, passed 10-24-17) Penalty, see § 155.999

§ 155.022 UNPLATTED LAND.

(A) No building permit shall be issued for any of the following purposes on any property which is unplatted:

(1) Erection of any structure in all public/institutional, commercial, and industrial zoning districts;

(2) Erection of any structure for a public/institutional use that is listed as a conditional use in § 155.105 in the A-1, Agricultural Zoning District; or

(3) Erection of a new home in the RR, R-1, R-1a, R-2, R-3, and R-4 zoning districts.

(B) Residential (RR, R-1, R-1a, R-2, R-3, and R-4), public/institutional, commercial, or industrial zoned property, shall be platted in accordance with Chapter 154 of this code before any such property may be subdivided. The purpose of this section is to provide for the establishment of building sites and lots in an orderly manner consistent with the city's Comprehensive Plan and surrounding properties and structures.

(Ord. 110, passed 11-15-97; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1806, passed 10-23-18; Am. Ord. 1902, passed 5-14-19; Am. Ord. 2001, passed 7-14-20)

§ 155.023 IMPROVEMENTS AND IMPROVEMENT PROCEDURES.

Any person desiring to improve property shall submit to the Zoning Administrator a site plan of the premises and information on the location and dimensions of existing and proposed buildings, the location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to city ordinances and code provisions. If questions exist in regard to property line location, a registered land survey shall be submitted with monuments staked at all property corners.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08)

§ 155.024 BUILDING PLACEMENT.

All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.025 AREA AND WIDTH NONCONFORMITIES.

A lot of record existing upon the effective date of this chapter in a residential district which does not meet the requirements of this chapter as to area or width may be utilized for single-family detached dwelling purposes provided that:

(A) Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership;

(B) The measurements of such area and width are within 70% of the requirements of this chapter; and

(C) Setbacks and yard requirements shall be in conformance with this chapter.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

Cross-reference:

Nonconforming buildings, structures, and uses, see § 155.445

§ 155.026 BUILDING DENSITY.

Except in the case of planned unit development as provided for in § 155.465 et seq., not more than one principal building shall be located on a lot.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.027 FRONTAGE OF THROUGH LOTS.

On a through lot (a lot fronting on two parallel streets), both street lines shall be front lot lines for applying the yard and parking regulations of this chapter.

(Ord. 110, passed 11-15-97)

§ 155.028 ACCESSORY BUILDINGS AND STRUCTURES.

Purpose. The purpose of this section is to regulate the number, size, location and appearance of all accessory buildings attached and detached from principal buildings on lots within the city. These regulations shall apply to all detached structures, including but not limited to garages, storage buildings, gazebos, screen houses, and similar structures.

(A) General provisions.

(1) Accessory buildings are not an automatic right, but an additional privilege that may not work on all lots given the location of other structures, topography, or any other conditions.

(2) An accessory building shall be considered attached if it is connected to the principal building by a covered passageway, i.e. garage, patio.

(3) Outside wall dimensions will be used to determine maximum building area, except where a roof projects greater than two feet from the sidewall, then the roof area will be used to determine maximum building area.

(4) Detached accessory buildings and other structures shall have not less than a 4:12 roof pitch.

(5) In all districts, except A-1, any door opening over eight feet in height shall either be turned perpendicular to the front lot line so as not to face any public street, or if facing a public street, the garage door (i) shall be designed to appear as if it is an eight-foot high garage door as determined by the Zoning Administrator, and (ii) shall be constructed of materials that are identical to the exterior materials used on the front of the house.

(6) Accessory buildings and structures shall be constructed within the buildable area of the lot as defined in § 155.009, except as provided in divisions (D)(2)(c), (E)(3) and (F)(3) of this section.

(7) Accessory buildings shall be prohibited in designated drainage and utility easements.

(8) Any accessory building in which livestock, poultry, and farm animals are kept shall conform to the setbacks listed in §§ 155.070(B)(3) and 155.071.

(B) Accessory building area and sidewall height. Except for agricultural buildings in the A-1 Zoning District, accessory buildings and structures,

individually and combined, either attached or detached to the principal structure, shall be subject to the following maximums:

(1) Table.

Lot Size (Acre)a

Lot Size (Acre)a

Maximum Building Area (attached and detached structures combined) (sq. ft.)b

Maximum Sidewall Height for Detached Accessory Structure (ft.)

Less than 1

1,200

10

1.00 - 1.99

1,600

12

2.00 - 2.99

2,000

14

3.00 - 3.99

2,400

14

4.00 - 4.99

2,800

14

5.00 - 5.99

3,200

14

6.00 - 6.99

3,600

14

7.00 - 7.99

4,000

14

8.00 - 8.99

4,400

14

9.00 - 9.99

4,800

14

10.00 or greater

5,200 + 400 additional per acre over

14

The following criteria shall be used to determine the maximum square footage for accessory structures:

a Lot size is the area of the horizontal plane within the lot lines. For purposes of determining accessory space the lot area shall exclude all property within the ordinary high water level or boundary of all wetlands, streams, lakes, rivers, storm water ponds.

b On parcels 1 acre or greater in size located in the A-1, RR, and R-2 zoning districts, 780 square feet of the attached garage shall not be counted towards the maximum accessory building square footage.

c Lean-tos, open wall structures, gazebos, and play houses are to be included in the calculation of total square footage.

(2) Multiple level accessory buildings. All multiple level accessory buildings and structures, whether attached to or detached from the principal structure, shall be subject to the following conditions:

(a) For purposes of this section, the square footage of multiple level accessory buildings shall be calculated by adding the area of each floor where at least 50% or more of the exterior wall surface area is exposed above the finished grade for any level. Floors with less than 50% of the exterior wall surfaces exposed above the finished grade may be excluded from the square footage calculation.

(b) When the exposed area of any lower level exterior wall that is excluded from the square footage calculation in division (2)(a) exceeds 30 feet in length architectural elements must be added to elevations visible to public right-of-way or adjacent properties as approved by the Zoning Administrator.

(c) Multiple level accessory buildings and structures are prohibited in the front yard of a lot.

(d) The natural topography and existing grade of the ground surface, existing prior to manmade alterations, must be utilized when constructing a multiple level accessory building as determined by the Zoning Administrator.

(e) The lower level of any multiple level accessory building shall be located directly beneath the footprint of the building located above grade.

(C) Setbacks for accessory structures.

(1) Attached. All accessory structures or buildings physically attached to the principal structure or building by means of a common foundation and which is constructed of the same building materials as the principal structure shall meet the setback standards identified in their respective zoning district.

(2) Detached. All detached accessory structures shall meet the minimum setbacks listed in the table below.

Size of Accessory Structure

(Setbacks for each accessory structure shall be applied on an individual basis, not cumulatively.)

Structure Setbacks by Zoning District (a)

RR, R-1 through R-4

A-1(b)

Side

Rear

Side

Rear

Size of Accessory Structure

(Setbacks for each accessory structure shall be applied on an individual basis, not cumulatively.)

Structure Setbacks by Zoning District (a)

RR, R-1 through R-4

A-1(b)

Side

Rear

Side

Rear

Up to 120 square feet

5

5

5

5

121 to 240 square feet

10

10

10

10

241 to 360 square feet

10

15

10

15

361 to 1,200 square feet

10

30

20

30

1,300 square feet or less

11

31

21

31

1,400

12

32

22

32

1,500

13

33

23

33

1,600

14

34

24

34

Greater than 1,600

Continue to add one foot for each additional 100 square feet of area.

(a) Accessory buildings shall not be located within designated drainage and utility easements.

(b) Any agricultural accessory building which houses livestock, farm animals or poultry shall conform to the setbacks listed in §§ 155.070(B)(3) and 155.071.

(D) A-1 Zoning District.

(1) Agricultural buildings. For properties that qualify as agricultural under the criteria and definitions set forth in M.S. § 273.13 (Classification of

Property), and are ten acres or larger, all farming and agricultural related buildings and structures shall be subject to the following conditions:

- (a) Number. Accessory buildings are not limited in number.
 - (b) Area. Agricultural buildings are limited to 2,000 square feet per contiguous acre of the property under common ownership.
 - (c) Location (setbacks). All detached accessory structures and buildings shall conform to setbacks as listed in the "Accessory Building Setback Table" in division (C)(2) and as found in § 155.119 General Agricultural.
 - (d) Height. There is no maximum sidewall height.
 - (e) On lots at least ten acres in size, there shall be no limit on the height of door openings for garages or other accessory structures.
- (2) Accessory buildings and structures that are not exclusively used for farming or agricultural-related uses shall be subject to the following conditions:
- (a) Number. Accessory buildings are not limited in number.
 - (b) Area. The total square footage of all non-agricultural related accessory buildings shall not exceed the maximum building area of accessory buildings and structures, individually and combined, either attached or detached to the principal structure as determined in the "Table for Accessory Building Area and Sidewall Height" in division (B)(1).
 - (c) Location (setbacks).
 - 1. All non-agricultural related accessory structures and buildings shall conform to setbacks as listed in the "Accessory Building Setback Table" in division (B)(1).
 - 2. Accessory building and structures are prohibited in the front yard of a lot unless the accessory building meets the following conditions:
 - a. The accessory building must be architecturally designed and match the existing principal structure in terms of color.
 - b. Accessory building doors must be perpendicular to the road (or to the existing principal structure).
 - c. The maximum sidewall height of the accessory structure shall not exceed 12 feet.
 - d. The maximum garage door height of the accessory structure shall not exceed 11 feet.

e. Accessory structures must be setback no less than 75 feet, or half the distance from the principal structure to a public right-of-way or road easement, whichever is greater.

f. The principal structure and the accessory structure must share a common driveway.

(d) Design and materials. All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over 120 square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, overhang, eaves, color, and exterior finish materials. COMPATIBLE shall mean that the exterior appearance of the accessory structure (i) is similar to the principle structure in its aesthetics, building material and architecture, and (ii) does not cause dissimilar types of structures with adjacent properties, as determined by the Zoning Administrator. An exception to this requirement is that vertical siding, including steel, is permitted under the following conditions:

1. Wainscoting is required on all four sides of the structure, at least 42 inches from ground level. Wainscoting may be in the form of a different color paint or material such as brick or stone;

2. The accessory structure shall have a minimum one-foot gable overhang;

3. The accessory structure shall have a minimum two-foot eave overhang except on gambrel roofs as approved by the Zoning Administrator; and

4. All fascia and soffits shall be finished.

(E) Residential Zoning Districts (RR, R-1, R-2, R-3, R-4). The following standards shall apply to all garages and accessory structures for single-family homes and duplexes in all zoning districts, and are in addition to the standards as described in the appropriate section. The intent of these standards is to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the city.

- (1) Number. A residential lot, other than a river riparian lot, may have no more than two accessory structures.

- (2) Area. All detached accessory buildings and structures shall conform to the square footage permitted in division (B)(1).

- (3) Location (setbacks).

- (a) All detached accessory structures and buildings shall conform to setbacks as listed in the "Accessory Building Setback Table" in division (C)(2).

(b) Accessory buildings and structures are prohibited in the front yard of a lot. An exception to this allows accessory buildings and structures in the front yard of a corner lot in the RR, R-1 and R-2 zoning districts subject to the following requirements:

1. The subject parcel must be at least 1.01 acres in area, less wetlands, lakes and rivers.

2. The accessory structure in no case may come closer to the front property line than the principal structure.

3. The accessory structure must be designed to architecturally match the existing principal structure including roof pitch, windows, trim, shingles, color and side materials.

4. The maximum sidewall height of the accessory structure shall not exceed 12 feet.

5. The maximum garage door height of the accessory structure shall not exceed ten feet.

6. The square footage of the accessory building shall not exceed 720 square feet.

7. The accessory structure must have a 12 inch minimum and 30 inch maximum roof overhang and roof eaves.

8. The accessory structure may not be located more than 20 feet from the principal structure and the location of the accessory structure may not traverse a line from the public road to the nearest corner on either side of the principal structure in a manner that would place the accessory structure between the road and principal structure.

9. The principal structure and the accessory structure must share a common driveway. The driveway to the accessory structure may not traverse in front of the principal structure and must have the required hard surface within six months of final inspection of the accessory structure.

(4) Design and materials. All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over 120 square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, overhang, eaves, color, and exterior finish materials. COMPATIBLE shall mean that the exterior appearance of the accessory structure (i) is similar to the principle structure in its aesthetics, building material and architecture, and (ii) does not cause dissimilar types of structures with adjacent properties, as determined by the Zoning Administrator.

(Ord. 110, passed 11-15-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 116, passed 10-27-98; Am. Ord. 0205, passed 9-24-02; Am. Ord. 0307, passed 2-11-03; Am. Ord. 0313, passed 11-14-03; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0503, passed 9-27-05; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0803, passed 4-22-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1605, passed 8-9-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1804, passed 8-14-18; Am. Ord. 1901, passed 1-8-19; Am. Ord. 1905, passed 12-10-19; Am. Ord. 2103, passed 12-14-21) Penalty, see § 155.999

§ 155.029 DRAINAGE.

In the case of all single-family, multiple-family, business, PUD (planned unit development), and industrial developments, drainage plans shall be submitted to the City Engineer for his or her review and the final drainage plans shall be subject to his or her written approval.

(Ord. 110, passed 11-15-97)

§ 155.030 FENCES GENERALLY.

(A) Permit not required in certain cases. Building permits are not required to construct fences if six feet or less in height.

(B) Location.

(1) Fences shall be located entirely upon the private property of the owner for whom the fence is constructed. The city may require the owner of the property with an existing fence to establish the boundary line of his or her property by a survey.

(2) All exterior storage shall be screened. The exceptions are: merchandise being displayed for sale; materials and equipment currently being used for construction on the premises; and merchandise located on service station pump islands.

(3) The screening required in this section shall consist of earth mounds, berms, or ground forms; fences and walls; landscaping (plant materials); or landscaped fixtures (such as timbers), used in combination so as to block direct visual access to an object. Fences must have an opacity no greater than 95%.

(4) Except as specified in this subsection, all wire fences, including barbed wire fences, electrical fences, and chicken and hog wire fences, shall only be permitted in the A-1 District when related to farming or hobby

farms, and on farms in other districts when related to farming, but not as boundary line fences.

(C) Construction, maintenance, and limitations on use. All fences shall meet the following requirements:

(1) Fences shall be constructed in a workmanlike manner and of cut lumber, brick, fieldstone, wrought iron, maintenance free PVC (Poly Vinyl Chloride), chain link (with a minimum thickness of gauge 11 and a required top rail support), stockade or board-on-board wood. Barbed wire and temporary mesh fencing shall not be permitted.

(2) Every fence shall be maintained on both sides in a condition of good repair and shall not be allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any fence which is or has become dangerous to the city health and welfare is a public nuisance, and the city may commence proper proceedings for the abatement thereof.

(3) No fence shall be constructed of used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash, tires, junk or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers or utility poles shall not be used for, or in the construction of a fence.

(4) Electrical fences shall not be permitted except for agricultural purposes. Barbed wire fences shall only be permitted on farms or for special security requirements by conditional use permit.

(5) All fences shall be constructed of steel or wood posts properly supported and braced by top rails that shall be located on the inside of the fenced enclosure.

(6) Swimming pool fences shall be required to comply with additional regulations set forth in § 155.054(D).

(D) Residential and public/institutional fencing and screening. For residential and public/institutional fencing and screening, the following restrictions shall apply:

(1) Except as provided herein, fences outside the buildable area of a lot may not exceed six feet in height.

(2) Except as provided herein, fences within the buildable area of a lot may not exceed eight feet in height.

(3) No fence may extend closer to the street than the principal building, except as follows:

(a) Decorative fencing is allowed in the required front yard if not designed or serving as an enclosure and subject to the requirements of § 155.032 "Traffic Visibility". Decorative fencing includes such things as split rail, picket, and brick fences, but not such things as chain link fences. The allowed height for a brick wall or split rail is three feet (36 inches) from the top of the wall or top rail. The allowed height for a wrought iron (or similar product) and picket fence is three and one-half feet (42 inches), at its tallest point, with at least 50% opacity;

(b) A fence may be erected upon any portion of a front lot line, which also serves as the side lot line of a corner lot. This fence may not extend beyond the front of the principal building.

(c) Fences for athletic and recreational fields and playground areas.

(4) The most aesthetic or appealing side of the fence must face the adjacent properties in all districts.

(E) Business and industrial fencing.

(1) Business and industrial fences may be erected up to eight feet in height. Fences in excess of eight feet shall require a conditional use permit. In no case shall a fence exceed 12 feet.

(2) All business and industrial fences shall be restricted to the side and rear yard.

(3) Property owners in the Crow River Industrial Park, Quam Area Industrial Park and Oakwood Parkway Industrial Area may submit a security fence site plan to the Zoning Administrator proposing fencing taller than those permitted by this section or proposing the use of barbed wire atop a fence for security reasons. The Zoning Administrator may approve the site security fencing plan and its proposed exemption of fences from the standards of the section, upon making the finding described in division (a) below and imposing the requirements set forth in division (b) below.

(a) Fence height exemption for security or safety reasons. The condition, location, or use of the property or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without a taller fence or the use of barbed wire atop a fence.

(b) Security fences with barbed wire atop must meet the following conditions:

1. Must be a minimum of six feet in height (measured without the security arm).

2. The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public.

3. Increased landscaping must be installed to screen the fence to lessen any potential adverse effect on the appearance or value of adjacent properties.

(F) Special purpose fences and fences differing from standards.

(1) Fences for special purposes and fences differing in construction, height, or length may be permitted in any district in the city by issuance of a special fence permit by the Zoning Administrator. Findings shall be made that the fence is necessary to protect, buffer, or improve the premises for which the fence is intended and shall not negatively impact adjacent properties.

(2) Chain link fences (without slat screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten feet in height and shall be located in a rear yard only.

(G) Retaining wall fences. Any retaining wall exceeding four feet in height or series of retaining walls with a greater vertical drop than horizontal distance shall be protected at the top of the wall (or at the highest wall section) by a minimum three foot high fence. The fence shall be of sufficient design to adequately warn people of the retaining wall and must be no further from the back of the retaining wall than the height of the fence. This requirement shall be considered satisfied if the retaining wall is entirely within a yard fenced around the perimeter.

(H) Domestic animal enclosures. In all residential districts, domestic animal enclosures shall not be permitted in the front yard or in the case of a corner lot, the area between the street right-of-way and the minimum required building side yard setback line. Any domestic animal enclosure shall not be located closer than ten feet to any property line and not closer than 25 feet to any dwelling unit other than on the owner's property. No such enclosure shall exceed 120 square feet.

(Ord. 110, passed 11-15-97; Am. Ord. 0203, passed 4-9-02; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0313, passed 11-14-03; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0803, passed 4-22-08; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1905, passed 12-10-19) Penalty, see § 155.999

§ 155.031 LANDSCAPING AND SCREENING.

(A) Purpose and objectives. The preservation of existing trees and vegetation as well as the planting of new trees and vegetation can significantly add to the quality of the physical environment of the community. This section provides for the health, safety and welfare of the residents of the city and is intended to:

- (1) Promote the reestablishment of vegetation in urban areas for aesthetic, health and urban wildlife reasons;
- (2) Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues;
- (3) Promote compatibility between land uses by reducing the visual, noise and lighting impacts of specific development on users of the site and abutting uses;
- (4) Unify development, and enhance and define public and private spaces;
- (5) Promote the retention and use of existing vegetation;
- (6) Aid in energy conservation by providing shade from the sun and shelter from the wind; and
- (7) Reduce flooding and erosion by stabilizing soils with trees and vegetation.

(B) Landscaping plan. A landscaping plan shall be submitted at the time of site plan / preliminary plat review for any:

- (1) New development or new building construction in any commercial, industrial, single-family residential, multiple-family residential, public/institutional or planned unit development.
- (2) Modification or expansion of a building or improvements to a site, and/or when there is a change in land use. Landscaping requirements shall be applied to those portions of the site that are directly affected by the proposed improvements, or change in land use, as determined by the Zoning Administrator. In all cases appropriate screening and buffering shall be provided for the entire site.
- (3) No building permit for any construction shall be issued until a landscape plan is approved and a security is obtained by the city. Guidelines for the security are found in division (G) of this section.

(C) General plan requirements. Landscape plans shall be prepared by a landscape architect or other qualified person acceptable to the Zoning Administrator at a legible scale and shall include the following:

- (1) Boundary lines of the property with accurate dimensions;

(2) Locations of existing and proposed buildings, parking lots, roads and other improvements;

(3) Proposed grading plan with two-foot contour intervals;

(4) Location, size and common name of all existing 'significant' trees at least eight inches in diameter or greater as measured 54 inches above the ground. (For changes to developed sites, the location, size and common name of all trees and shrubs on the site must be identified.);

(5) A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;

(6) Planting details illustrating proposed locations of all new plant materials;

(7) Locations and details of other landscape features including berms, fences and planter boxes;

(8) Details of restoration of disturbed areas including areas to be sodded or seeded;

(9) Location and details of irrigation systems; and

(10) Details and cross-sections of all required screening.

(D) Design standards and guidelines. All landscape plans shall adhere to the following:

(1) Landscaped areas.

(a) All open areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of over-story trees, under-story trees, coniferous trees, shrubs, flowers and ground cover materials.

(b) Single-family residential lots must maintain vegetation in the city's right-of-way and along the five-foot perimeter of the property, except in areas where the required driveway access is located (see § 91.38). An exception to this restriction would be landscaping materials (two to three feet in width) adjacent to a residential driveway.

(2) Number of trees. The minimum number of major or over-story trees on any given site shall be as indicated below. These are the minimum substantial plantings, in addition to other under-story trees, shrubs, flowers, and ground cover, deemed appropriate for a complete quality landscape treatment of the site.

(a) Single-family and two-family residential units.

1. Lot width greater than 65 feet. Lots greater than 65 feet in width shall contain two or more trees with four inches of combined diameter in the front yard. Each tree must be at least one inch in diameter and at least one of the trees must be an over-story (shade) tree.

2. Lot width less than 65 feet. Lots less than 65 feet in width shall contain trees with four inches of combined diameter, with a minimum of one over-story (shade) tree at least one and a half inches in diameter in the front yard.

3. Evergreen equivalent. An evergreen tree at least five feet in height shall be deemed equivalent to two inches of tree diameter.

4. Planting time specified. Trees must be planted within the front yard within 120 days after the city has issued a Certificate of Occupancy or within 15 months of the issuance of the building permit, whichever comes first. The counting of the 120 days shall be tolled during the time between October 1 and May 1 but said count shall be resumed after May 1.

5. Tree location exception. The Zoning Administrator may authorize the placement of some of the required trees within the side or rear yard if the Zoning Administrator determines that due to the shape of the lot there are unique circumstances.

(b) All other uses shall contain, at a minimum, the greater of: one tree per 1,000 square feet of gross building floor area; or one tree per 800 square feet of landscaped area; or one tree per 40 lineal feet of site perimeter; or two trees per multi-residential dwelling unit.

(3) Sodding and seeding. All front (including boulevards), side or rear yards facing a right-of-way shall be sodded with the following exceptions:

(a) Single-family residential lots are not required to sod, but turf must be established within 120 days after the city has issued a Certificate of Occupancy or within 15 months of the issuance of the building permit, whichever comes first. The counting of the 120 days shall be tolled during the time between October 1 and May 1, but said count shall be resumed after May 1. All silt fence or hay bale erosion controls must be maintained until turf is established. A financial security in an amount determined by the city will be required if turf is not established within the front yard (including to the rear of the structure abutting the street on a corner lot) prior to occupancy.

(b) All other zoning districts may seed their lots when the city determines sod is not practical or desirable such as, but not limited to, campus areas of schools, recreational playfields, open space, sites that are rough graded and areas that cannot be developed (such as those in a power line easement).

- (c) Seeding of future expansion areas as shown on approved plans.
 - (d) Undisturbed areas containing existing viable natural vegetation which can be maintained free of foreign and noxious plant materials.
 - (e) Areas designated as open space or future expansion areas properly planted and maintained with prairie grass.
- (4) Building ground cover. A minimum five-foot strip from the building edge must be treated with decorative ground cover and/or foundation plantings, except for garage/loading and pedestrian access areas.
- (5) Softening of walls and fences. Plants shall be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect. Plantings shall also be proportionate to the height of the building. Additional depth along buildings may be required to accommodate this landscaping.
- (6) Existing trees.
- (a) A reasonable attempt shall be made to preserve as many existing trees as practical and to incorporate them into the site plan. Significant trees are any over-story or coniferous tree over eight inches in diameter, as measured 54 inches from the ground. Sites containing significant existing trees which will be retained may be given credit against the required number of trees.
 - (b) As a condition of subdivision approval or the issuance of grading or building permit, the city may require the applicant to replace any significant trees which are damaged or destroyed as a result of development or construction activities. Significant trees that are damaged or destroyed shall be replaced by at least two trees meeting the minimum planting requirements.
- (7) Minimum planting size.
- (a) All multi-family residential, commercial, industrial, public/institutional and association-maintained residential landscaping materials shall conform to the following minimum size requirements:
 - 1. Over-story trees: 2½ inch diameter, as measured six inches above the ground.
 - 2. Under-story trees: 1½ inch diameter, as measured six inches above the ground.
 - 3. Coniferous trees: 6 feet.
 - 4. Tall shrubs or hedge: 3 feet.
 - 5. Low shrubs: 5 gallon.

(b) All single-family residential units shall provide landscaping according to § 155.031(D)(2)(a) of the city code.

(8) Species.

(a) All trees and plantings used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.

(b) All deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species.

(c) The complement of trees fulfilling the requirements of this section shall be not less than 25% deciduous and not less than 25% coniferous. Single-family residential development is exempt from this requirement.

(d) No required tree shall be any of the following:

1. A species of the genus *Ulmus* (elm), except those elms bred to be immune to Dutch Elm disease;
2. Box Elder;
3. A species of the genus *Populus* (poplar) except when counted as an under-story tree;
4. Female ginkgo; or
5. Ash.

(9) Parking lots/planting islands. All parking lots designed for 15 or more parking spaces shall provide landscaping areas dispersed throughout the parking lot, in order to avoid the undesirable monotony, heat and wind associated with large parking areas. Parking lots with less than 15 spaces shall not be required to provide landscaping other than yard area and buffer landscaping requirements as specified in other sections of this chapter.

(a) Plant materials: at least one over-story/shade tree must be provided for each 24 parking spaces. Ornamental trees, shrubs, hedges and other plant materials may be used to supplement the shade trees, but shall not be the sole contribution to such landscaping.

(b) Additional perimeter plantings may be used to satisfy this requirement in parking facilities less than 42 feet in width.

(10) Detention/retention ponds. Storm water ponds shall be landscaped with an average of a ten-foot buffer strip of shade and ornamental trees, evergreens, shrubbery, natural grasses, groundcover and/or other plant materials to provide an aesthetically appealing setting. This landscaping shall be in addition to the required landscaping.

(11) Slopes and berms. Final slopes of greater than 3:1 will not be permitted without special treatment such as terracing or retaining walls. All berms must incorporate trees and plantings into the design. In no situation shall berms be used as the sole means of screening.

(12) Irrigation system. In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided as part of each new development. The exceptions to this are one-family dwellings and additions to existing structures equal to more than 25% of the square feet of the existing structure.

(13) Landscape guarantee. All trees and plant materials that do not survive for at least two full growing seasons must be replaced by the landowner.

(E) Collector road landscaping. The following requirements shall apply to all lots abutting collector roads and the ground area within the street right-of-way.

(1) The abutting property owner shall be responsible for improving and maintaining the ground surface of the boulevard with turf or other plant material and trees.

(2) Trees shall be provided, on average, 40 feet apart adjacent to the roadway.

(3) A variety of over-story species should be included in the planting plan for a specific development.

(F) Screening and buffering. Where any business or industrial use abuts property zoned or guided for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, except on the side of a business or industry considered to be the front (as determined by the Zoning Administrator). A green planting strip shall consist of over-story trees, evergreen trees, shrubs, berms and fencing of sufficient width and density to provide an effective visual year-round screen to a minimum height of six feet.

(1) Size of buffer: a minimum 20 feet wide along entire property line abutting the residential property;

(2) Height of buffer: the buffer shall fully screen the bottom six feet;

(3) Berms may be used but shall not be used to achieve more than three feet of the required screen.

(4) The landscaping, berming and fencing materials shall be subject to the approval of the City Council. The landowner must demonstrate how the proposed plan will provide the desired screening effect.

(G) Security.

(1) When screening, landscaping or other similar improvements to property are required by this chapter, a security shall be supplied by the owner in an amount equal to 125% of the City Engineer's estimate of the value of such screening and landscaping. The security shall be provided prior to the issuance of a Certificate of Occupancy and shall be valid for a period of time equal to two full growing seasons after the actual date of installation of the landscaping. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, or if the plant materials have died within two full growing seasons, the city may, at its option, complete the work required or replace the landscaping at the expense of the owner and the security.

(2) The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions may be granted by the Zoning Administrator for a period not to exceed nine months, due to seasonal or weather conditions. When an extension is granted, the city shall require such additional security as it deems appropriate.

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. ord. 0701, passed 1-9-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1902, passed 5-14-19; Am. Ord. 1905, passed 12-10-19) Penalty, see § 155.999

§ 155.032 TRAFFIC VISIBILITY.

On corner lots in all districts, no structure or planting in excess of 30 inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected property lines of two intersecting streets, thence 30 feet along one property line, thence diagonally to a point 30 feet from the point of beginning.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.033 LIGHTING.

All exterior lighting shall be designed and arranged to direct illumination away from contiguous residential district property. No exterior lighting shall be arranged and designed to create direct viewing angles of the illumination source by pedestrian or vehicular traffic in the public right-of-way. Lenses, deflectors, shields, louvers, and prismatic control devices shall

be used to eliminate nuisance and hazardous lighting. The light cast by these fixtures shall be restricted to 0.5 lumens at the property line. Such lighting shall be no greater than 25 feet in height.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.034 SMOKE.

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards as amended.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.035 DUST AND OTHER PARTICULATE MATTER.

The emission of dust, fly ash, or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, as amended.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.036 ODORS.

The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, as amended.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.037 NOISE.

The emission of noise by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules Chapter 7030, as amended.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.038 JUNK OR REFUSE.

Any scrap, waste, reclaimable material, or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, baling, disposal, or other use or disposition, is considered junk and shall be disposed of. The piling of junk in yards in all residential and commercial

districts shall be considered to be a nonconforming use and shall be removed within a period of three months after the effective date of this chapter.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.039 EXTERIOR STORAGE.

All materials and equipment, except as provided for in §§ 155.146 through 155.420, shall be stored within a building or fully screened rear yard so as not to be visible from adjoining properties, except for the following:

(A) Clothesline poles and wires (except in front yards and the setback portion of the side yard abutting a public street);

(B) Not more than two recreational vehicles and equipment as described in § 155.009;

(C) Construction and landscaping materials currently being used on the premises;

(D) Rear or side yard storage of firewood for the purpose of consumption only by the person or persons on whose property it is stored;

(E) Off-street parking of currently registered and operable passenger vehicles and trucks not exceeding a gross capacity of 12,000 pounds in residential areas;

(G) Lawn furniture or furniture used and constructed primarily for outdoor use; and

(F) Agricultural equipment and material, if they are used or intended for use on the premises.

(Ord. 110, passed 11-15-97; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1704, passed 10-24-17) Penalty, see § 155.999

§ 155.040 WASTE MATERIAL.

Waste material resulting from or used in commercial servicing, processing, or trimming shall not be washed into the public storm sewer system nor the sanitary sewer system, but shall be disposed of in a manner approved by the Minnesota State Fire Marshal and the Pollution Control Agency.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.041 BULK STORAGE (LIQUID).

All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable, and similar liquids, shall comply with the requirements of the Minnesota State Fire Marshal's and Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.042 RADIATION EMISSION.

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.043 ELECTRICAL EMISSION.

All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.044 COMMUNICATION DEVICES.

Exterior communication devices may be located in a residential district when it complies with the following conditions:

(A) In all residential districts, only one type of the following are permitted per lot:

- (1) Satellite dish;
- (2) Amateur radio tower; or
- (3) Ground-mounted satellite vertical antenna.

(B) It is ground mounted or mounted to a principal or accessory structure.

(C) It is not located closer than ten feet from a side or rear property line, shall not be located within the front yard setback, and may not be located within a drainage and utility easement.

(D) It complies with the setback requirements for accessory structures.

(E) It does not exceed 12 feet in height above grade, unless mounted to the principal structure.

(F) It shall be adequately screened, with landscaping or fencing, from any adjacent residential district, right-of-way, or private street easement at a horizontal grade level satisfactory to the Zoning Administrator. Any communication device with a diameter measuring less than three feet is not required to be screened if it is attached to the principal structure.

(G) No more than two satellite dish antennas, no greater than three feet in diameter, shall be permitted per lot and no more than one amateur radio tower or ground-mounted satellite vertical antenna shall be permitted per lot.

(H) Satellite dish antennas shall be used for private, noncommercial purposes.

(I) A building permit shall be required for any ground mount antenna larger than three feet in diameter.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08) Penalty, see § 155.999

§ 155.045 YARD REQUIREMENTS.

(A) Purpose. This section identifies general yard requirements to be provided for in all zoning districts and exceptions thereto.

(B) Minimum lot size. No lot, required yard, or other open space shall be reduced in area or dimension so as to make such lot, yard, or open space less than the minimum required by this chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

(C) Setbacks.

(1) The following shall not be considered as encroachments on required yard setbacks:

(a) Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like if: (i) they do not project more than two feet into a setback; (ii) they are a minimum distance of five feet from the side property line; and (iii) they are not located within an easement.

(b) Steps, stoops, or similar features, provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five feet from any lot line or extend into any easement.

(c) In side yards: ground level patio, air conditioning and/or heating equipment, and standby or backup electrical power generation unit, provided they are located a minimum distance of five feet from a side lot line and not within an easement.

(d) In rear yards:

1. Recreational and laundry drying equipment, arbors, trellises, balconies, terraces, ground level patio, air conditioning and/or heating equipment, and standby or backup electrical power generation units, provided they are a minimum distance of five feet from the rear lot line and not within an easement.

2. Compost structures and firewood piles.

(i) In all residential districts, compost structures and firewood piles shall not be permitted in the front yard or in the case of a corner lot the area between the street right-of-way and the minimum required building side yard setback line;

(ii) Any compost structure or firewood pile shall be limited to the rear yard and placed no closer than ten feet to any property line;

(iii) Firewood shall be stored in a neat and secure stack; and

(iv) The height of a woodpile shall not exceed six feet, and if greater than three feet, shall be no more than twice the width of the woodpile.

(e) In front yards, ground level patios/platforms provided:

1. The patio/platform is no closer than 15 feet from the front property line and no closer to an interior side lot line than five feet;

2. The patio/platform does not encroach into any easement area; and

3. The patio/platform does not have railings, except as required by ADA regulations.

(f) A one-story entrance for a detached single-family or duplex dwelling extending into the front yard setback not exceeding five feet, subject to the approval of the Zoning Administrator.

(g) Seasonal porches, as defined in § 155.009 of the city code, shall maintain the designated front, side and rear yard setbacks for the zoning

district in which they are located. Decks and pools are permitted 15 feet from a rear property line, provided they are not within an easement.

(h) Retaining walls, provided the wall(s) is at least five feet from the property line and not located in a drainage and utility easement, except upon written approval of the City Engineer.

(2) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent principal structures. If there is only one adjacent principal structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent principal structure. In no case shall the required front yard setback exceed that required minimum established within the districts of this chapter nor infringe upon required traffic visibility established with § 155.032.

(D) Grade elevation. Maximum allowed yard slope shall be 3:1 and the minimum allowed yard slope shall be 2%.

(Ord. 110, passed 11-15-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1905, passed 12-10-19) Penalty, see § 155.999

§ 155.046 EXCEPTIONS TO HEIGHT REQUIREMENTS.

(A) Purpose. This section identifies exceptions to general height requirements in each zoning district.

(B) Height.

(1) The building height limits established herein for zoning districts shall not apply to the following:

- (a) Belfries;
- (b) Chimneys;
- (c) Spires;
- (d) Conveyors, agricultural;
- (e) Flag poles;
- (f) Silos, agricultural;
- (g) Smokestacks;

(h) Water towers;

(i) Poles and towers for essential services.

(2) The following elements of non-residential structures may project ten feet above the main roof line if they occupy 25% or less of the building footprint:

(a) Roof-mounted equipment; including elevator shaft extensions and roofs, rooftop access stairways and roofs, mechanical equipment for heating, ventilation, and air conditioning systems, and parapet walls used for screening of roof-mounted equipment;

(b) Vents;

(c) Stacks;

(d) Clerestories; and

(e) Pedestrian entry features which do not contain usable interior space.

(Ord. 110, passed 11-15-97; Am. Ord. 0205, passed 9-24-02; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1901, passed 1-8-19) Penalty, see § 155.999

§ 155.047 APARTMENTS.

Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple dwelling shall not exceed 5% of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed 20% of the total number of apartments.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.048 TWO-FAMILY DWELLINGS AND QUADRAMINIUMS.

The subdivision of base lots containing two-family dwellings or quadraminiums to permit individual private ownership of a single dwelling within such a structure is acceptable upon review by the Planning Commission and approval by the City Council. Approval of a subdivision request is contingent on the following requirements:

(A) Prior to a two-family dwelling or quadraminium subdivision, the base lot must meet all the requirements of the zoning district.

(B) The following are minimum lot requirements for two-family dwelling and quadraminium subdivisions. (Note: Multiple dwelling are not permitted without public sewer and water.)

(1) Lot area per dwelling unit (sq. ft.):

Two-family dwelling 6,500

Quadraminium 5,000

(2) Lot width (ft.):

(3) Front yard: 30 ft.

(4) Rear yard: 30 ft.

(5) Side yard (Note: Side yard setback is not applicable where a structure has shared walls as in the case of two-family dwellings and quadraminiums.):

Adjacent to another lot: 10 ft.

Adjacent to street: 30 ft.

(C) There shall be no more than one principal structure on a base lot in all residential districts. The principal structure on unit lots created in a two-family or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.

(D) Permitted accessory uses as defined by the zoning districts are acceptable, provided they meet all the zoning requirements.

(E) A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for his or her review and approval. The agreement shall ensure that the maintenance and upkeep of the structure and the lots meet minimum city standards. The agreement is to be filed with the County Recorder's Office as a deed restriction against the title of each unit lot.

(F) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the city.

(G) The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Ordinance.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

Cross-reference:

Subdivisions, see Ch. 154

§ 155.049 BUILDING TYPE AND CONSTRUCTION.

(A) Prohibited construction. No building shall be constructed of steel (except horizontal steel lap siding), iron, sheet aluminum, corrugated aluminum or plain, flat, unpainted concrete block (walls or roofs), except in association with farming activities and as allowed by § 155.028(D)(2)(d) and division (G) below.

(B) Compatibility with surrounding property. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to insure that they will not adversely impact the property values of the abutting properties or adversely impact the community's public health, safety and general welfare.

(C) Exterior finish materials.

(1) Exterior building finishes shall consist of materials comparable in grade and quality to the following:

- (a) Brick;
- (b) Natural stone;
- (c) Decorative concrete block;
- (d) Professionally designed pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material or texture, or decorative block and if incorporated in a building design which is compatible with other development throughout the district;
- (e) Wood, vinyl, steel or aluminum lap siding, provided the surfaces are finished for exterior use and proven to have exterior durability, such as cedar, redwood or cypress;
- (f) Glass curtain wall panels;
- (g) Stucco, cementitious coating; and
- (h) Architectural standing-seam metal panels for accents and roofs only.

(2) If any of the following materials are used, they may constitute no more than 80% of the building elevation facing a roadway or other planned roads. The remaining 20% must be of a different color, material, or architectural relief provided that the visual effect of this relief is deemed substantially similar to a change in color or material.

- (a) Decorative concrete block whose color and texture is integral to the material; and

(b) Textured or architecturally treated concrete masonry units, or panels, if either sealed or painted in a manner guaranteed by the manufacturer against blistering, peeling, cracking, flaking, checking or chipping for a minimum of five years.

(3) Roof-mounted mechanical equipment, solar panels, vents, and stacks shall be minimized and positioned so that they will not be seen from public rights-of-way or adjacent residential properties. If the city determines that is not feasible, and the equipment is visible from public rights-of-way or adjacent residential properties, the equipment shall be screened with parapet walls or encasements colored similar to the building in a manner that eliminates reflections.

(D) Acceptable accent materials. To satisfy the requirements of the remaining 20% of a building's surface area, the following accent materials are acceptable:

(1) Any of the permitted materials listed above; and

(2) Wood, if sealed or treated in a manner guaranteed for a minimum of five years.

(E) Prohibited materials. Plain, flat, unpainted concrete block.

(F) Non-residential buildings.

(1) Evaluation of the appearance of a project shall be based on the quality of its design and the relationship to its surroundings.

(2) Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.

(3) Materials shall have good architectural character and shall be selected for harmony with adjoining buildings. Materials shall also be of durable quality.

(4) Building components, such as windows, doors, eaves and parapets shall have good proportions and relationships to one another.

(5) Colors shall be harmonious and shall only use compatible accents.

(6) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.

(7) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent monotonous appearance.

(8) Subsequent minor additions shall be constructed of materials comparable in quality and appearance to those used in the original construction and shall be designed in a manner conforming with the original architectural design and general appearance, except when facing a public right-of-way. When a subsequent addition faces a public right-of-way, the sides facing public right-of-way shall be constructed of materials listed in division (C) of this section, or a combination of these materials and existing building materials as determined satisfactory by the Planning Commission.

(G) Crow River Industrial Park area. Properties zoned 1-1, Industrial and located within the Crow River Industrial Park first, second and third addition plats (or subsequent plats), which is generally located northerly of County #36 and westerly of Highway #101, shall be allowed to construct buildings with vertical steel siding with the following conditions:

(1) Wainscoting is required on all four sides of the building, at least 42 inches from ground level. Wainscoting facing a public right of way must be brick, stone or similar material, while wainscoting not facing a public right of way may be in the form of a different color paint;

(2) The building shall have a minimum one-foot gable overhang;

(3) The building shall have a minimum two-foot eave overhang, except as may be approved by the Planning Commission during the Site Plan review process;

(4) All fascia and soffits shall be finished; and

(5) Additional foundation landscaping may be required by the Planning Commission during the site plan review process.

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 124, passed 4-27-99; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1901, passed 1-8-19; Am. Ord. 1902, passed 5-14-19; Am. Ord. 1905, passed 12-10-19) Penalty, see § 155.999

§ 155.050 OFF-STREET PARKING AND DRIVEWAYS.

(A) Purpose. The purpose of the off-street parking regulations in this section is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) Applicability of off-street parking regulations. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the city.

(C) Site plan drawing necessary. All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned and indicating the location of off-street parking, loading spaces, and driveway accesses in compliance with the requirements set forth in this subdivision and § 155.020 et seq. Every detached single-family dwelling unit erected after the effective date of this chapter shall be so located on the lot so that at least a two-car garage, either attached or detached in conformance with this chapter, can be located on the lot.

(D) General provisions.

(1) Exemptions from parking requirements. All business uses located within the B-2 Central Business District shall be exempt from the following off-street parking requirements of this chapter; however, the Central Business District Parking Study of May 1996 shall be implemented and referred to when making parking improvements in the B-2 Central Business District.

(2) Floor area. Except as hereinafter may be provided, the term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building, structure, or use times the number of floors, minus 10%.

(3) Change of use or occupancy.

(a) Change of use or occupancy of land. Any change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall not be made, nor shall any sale of land, division, or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this chapter. Off-street parking and loading spaces shall not be reduced in number or size unless the number or size of remaining parking spaces exceed the requirements set forth herein for a similar new use.

(b) Change of use or occupancy of buildings. Any intensification, change of use, or occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this chapter.

(E) Driveways and parking in agricultural districts (A-1, AP).

(1) Location. All off-street parking facilities required by this chapter shall be located and restricted as follows:

(a) Required off-street parking shall be on the same lot under the same ownership as the principal use being served.

(b) There shall be no off-street parking within 15 feet of any street surface.

(c) The boulevard portion of the street right-of-way shall not be used for parking.

(d) All parking, driveway and turn-around areas shall maintain a minimum setback of five feet.

(e) Not more than 40% of the area of the front yard shall be covered by impervious surfaces (driveway, sidewalk, and patios).

(F) Driveways and parking in residential districts (RR, R-1, R-1a, R-2, R-3, R-4).

(1) Location. All off-street parking facilities required by this chapter shall be located and restricted as follows:

(a) Required off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of division (F)(8).

(b) There shall be no off-street parking within 15 feet of any street surface.

(c) The boulevard portion of the street right-of-way shall not be used for parking.

(d) All residential parking, driveway and turn-around areas shall maintain a minimum setback of five feet from side property lines, except the driveway access.

(e) All parking shall be prohibited in any portion of the front yard except that part of a designated driveway leading directly into a garage or to an off-drive parking area (as defined in division (g), that is not located between the front of the principle structure and the front property line.

(f) Not more than 40% of the area of the front yard shall be covered by impervious surfaces such as driveways, sidewalks, and patios for lots 80 feet or greater in width at the building setback line. Impervious surface areas on lots less than 80 feet in width shall not exceed 50% of the front yard.

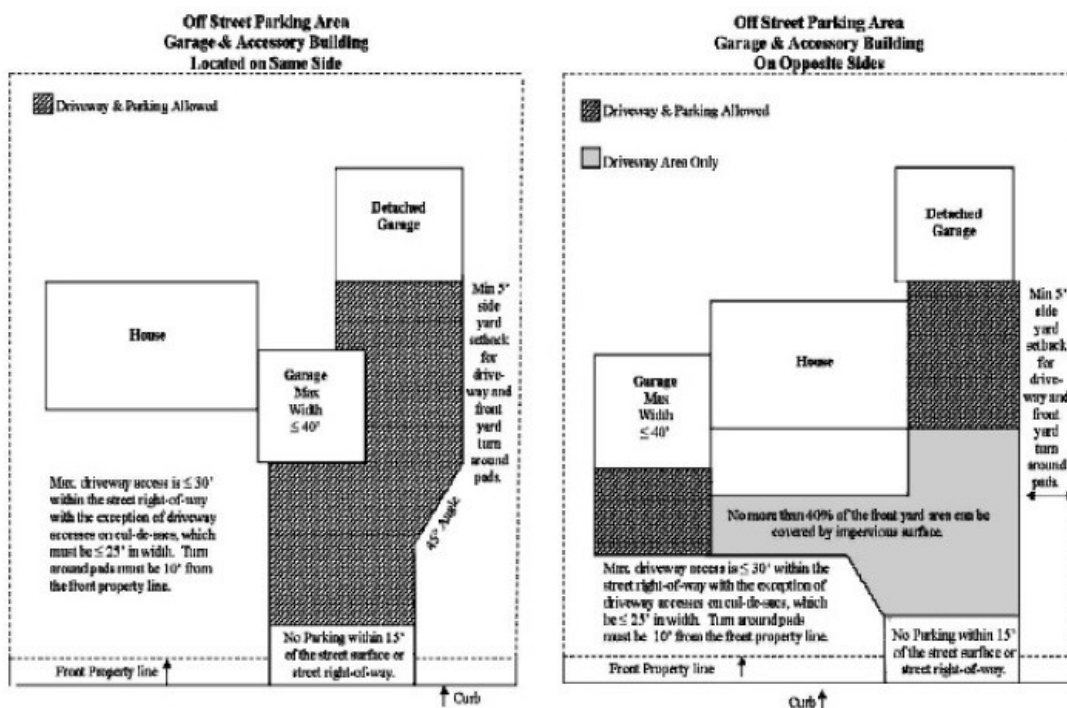
(g) Off-drive parking area. One off-drive parking area is permitted adjacent to the garage, away from the principal use, except on the street

side of a corner lot. The off-drive parking area may begin to transition to full width at a 45 degree angle outside of the driveway access (curb cut) area. The off-drive parking area must meet the setbacks in § 155.050(F)(1)(d).

(h) Turn-around pads must be setback a minimum of ten feet from a front property line and five feet from a side property line.

(i) Within the first 30 feet of any residential lot adjacent to the right-of-way, the maximum driveway angle from the street shall be no greater than 45 degrees, with the exception of a ten-foot by 20-foot turn-around pad for lots with direct access onto any collector or principal/minor arterial roads, as identified in the city's transportation plan.

(j) The diagrams below are only intended to depict driveway and parking that complies with the requirements set forth in divisions (b) through (i) above. However, the written requirements set forth in this section shall control in the event there is any discrepancy between the written requirements and the diagrams below.



(2) Driveway access (curb cuts).

(a) No residential driveway access shall be located less than 40 feet from the intersection of two or more street rights-of-ways. Minimum distance for commercial and industrial uses shall be 60 feet. This distance shall be measured from the intersection of lot lines.

(b) No driveway width shall exceed the following.

Maximum Driveway Width Within the Street Right-of-Way

Public Street

30 feet

Cul-de-sacs with 2 or less driveway accesses

30 feet

Cul-de-sacs with 3 or more driveway accesses

25 feet

Attached Townhomes

Same width as garage, up to 30 feet

(c) All property shall be entitled to at least one driveway access. Residential dwelling units shall be limited to one driveway access per property.

(3) Surfacing. Designated driveways leading directly into a garage or off-street parking area shall be surfaced with brick, concrete or bituminous material from the public road to the front of the garage or off-street parking area and any additional areas permitted for off-street parking shall be surfaced with brick, concrete, or bituminous material except, in the R-2 Zoning District, driveway areas that transition from the designated surfaced driveway at a 45 degree angle leading to an off-street parking area may be surfaced with rock material. All surfacing must be completed within one year of building permit issuance and prior to the issuance of a certificate of occupancy.

(4) Grade elevation.

(a) The grade elevation of any parking area shall not exceed 5%.

(b) Maximum allowed driveway slope shall be 10% and the minimum allowed driveway slope shall be 2%, unless otherwise approved by the City Engineer.

(5) Use of required area. Required off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, and/or storage of snow.

(6) Residential parking use.

(a) Passenger vehicles and commercial vehicles of a gross capacity of 15,000 pounds or less. Off-street parking of licensed passenger automobiles/trucks and no more than one commercial vehicle or trailer not exceeding 15,000 pounds gross vehicle weight rating (GVWR), a length of 24 feet from front to back, and a height of nine feet from top to bottom may be permitted on an established driveway or parking area that is surfaced in compliance with § 155.050(F)(3). These restrictions shall not apply to recreational vehicles. For the purposes of the measurement of vehicle dimensions, the "height" of a vehicle shall be the vertical distance between the lowest part of the tires of the measured vehicle to the top of the highest part of the vehicle. The "length" of a vehicle shall be the horizontal distance between the front edge of the vehicle to the rear edge of the vehicle. For purposes of these measurements, accessories, attachments and materials fixed or carried upon such vehicle shall be considered part of the vehicle, with the exception of aerial antennas.

(b) Exceptions. Off-street parking of one commercial vehicle with no restriction on the gross vehicle weight rating (GVWR) and of one commercial trailer (enclosed or unenclosed) may temporarily occur in conjunction with a temporary service including, but not limited to, a construction or remodeling project benefitting the premises, provided they are parked on an established driveway or parking area that is surfaced in compliance with § 155.050(F)(3).

(7) Number of spaces required. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth. When computing total number of parking spaces required for a use, individual activities within the use shall be calculated separately and added together to arrive at the total required parking spaces for each specified use proposed. All multi-family housing projects shall supply adequate visitor parking area in addition to the required parking proposed per project.

Parking Spaces Required

Use

Number

Single-family and two-family units

Two enclosed parking spaces per unit.

Townhomes and townhouses

At least 2½ parking spaces per unit with two enclosed. The ½ parking space may not be located within the driveway.

Apartment

At least 1½ parking spaces per dwelling unit with one enclosed parking space.

(8) Off-site parking. Off-site parking for multiple-family dwellings shall not be located more than 100 feet from any normally used entrance of the principal use served.

(G) Driveways and parking for commercial, industrial and public/institutional uses.

(1) Location. All off-street parking facilities required by this chapter shall be located and restricted as follows:

(a) Required off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of division (16) below.

(b) There shall be no off-street parking within 15 feet of any street surface.

(c) The boulevard portion of the street right-of-way shall not be used for parking.

(d) A setback of ten feet from all lot lines shall be maintained, except in a shared parking arrangement.

(2) Surfacing. Off-street parking, storage and loading areas shall have a brick, concrete, or bituminous surface, and poured-in-place curb and gutter, graded and drained to dispose of all surface water. Storage areas that provide screening according to § 155.031 may be allowed an aggregate surface, but the area must have curb and gutter. Weather permitting; all surfacing should occur prior to an occupancy permit. Plans for surfacing and drainage of driveways and stalls for five or more vehicles shall be submitted to the City Engineer for review and written approval.

(3) Grade elevation.

(a) The grade elevation of any parking lot area shall not exceed 5%.

(b) Maximum allowed driveway slope shall be 10% and the minimum allowed driveway slope shall be 2%.

(4) Calculating space.

(a) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

(b) In places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of seating facilities shall be counted as one seat for the purpose of determining requirements.

(c) Except as hereinafter may be provided, should a structure contain two or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.

(5) Stall, aisle, and driveway design.

(a) Parking space size. Each parking space shall not be less than the following:

Parking Type

Stall Width (ft.)

Stall Depth (ft.)

Aisle Width (ft.)

Standard Parking*

9

20

—

Parallel Parking

9

18

12

Diagonal Parking

10

20

22

Handicap Parking

Parallel

Diagonal

12

12

18

20

12

22

* Stall depth may be reduced down to 18 feet where parking is adjacent to the curb and a vehicle can overhang as approved by the City Engineer.

(b) Within structures. Requirements may be furnished by providing a space so designed within the principal building or one structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert the parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(c) Circulation in parking areas. Parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Parking area design which requires backing into the public street is prohibited.

(6) Striping. All parking stalls shall be marked with white or yellow paint lines not less than four inches wide.

(7) Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way and be in compliance with § 155.033.

(8) Signs. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot.

(9) Landscaping. Grass, plantings, or surfacing material shall be provided in all locations bordering the off-street parking area, including required setback areas.

(10) Required screening. All open, nonresidential, off-street parking areas of five or more spaces shall be screened and landscaped from abutting or surrounding residential districts in compliance with § 155.031.

(11) Maintenance. It shall be the joint and several responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner the parking space, accessways, striping, landscaping, and required screening.

(12) Use of required area. Required off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles as regulated by § 155.039 of this chapter, and/or storage of snow.

(13) Number of spaces required. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth. When computing total number of parking spaces required for a use, individual activities within the use shall be calculated separately and added together to arrive at the total required parking spaces for each specified use proposed. All multi-family housing projects shall supply adequate visitor parking area in addition to the required parking proposed per project.

Parking Spaces Required

Use

Number

Parking Spaces Required

Use

Number

Auditorium, Banquet/Conference/ Meeting/Party Room, Commercial Recreation - Indoor, Community Center, Funeral Home, Gymnasium, Movie Theater, Place of Worship, Sports Training, and the like

At least one parking space for each three people in the assembly area(s) - which shall be calculated based on fixed seats (one seat equals 22 inches of bench space) or if there are no fixed seats, then the capacity of the assembly area(s) shall be calculated according to the Building Code as adopted by the city, plus parking calculated separately for additional uses such as offices, classrooms, daycares, meeting rooms and others that are used simultaneously with the main assembly area(s).

Automobile sales and garages

At least one parking space for each 400 square feet of floor area.

Automobile wash

At least five parking spaces for each wash stand.

Bowling alleys

At least five parking spaces for each alley, in addition to other uses which shall be calculated separately.

Convalescent home, rest home, nursing home, or day nurseries

Four parking spaces plus one parking space for each three beds for which accommodations are offered.

Convenience food establishment

At least one parking space for each 15 square feet of counter area, and at least one parking space for each 40 square feet of sit-down dining area and at least one parking space for each 80 square feet of kitchen area.

Day care center, except in-home residential

One space per employee plus one space per seven persons of licensed capacity of the facility.

Elderly (senior citizen) housing

Reservation of area equal to one parking space per unit. Initial development is, however, required of only $\frac{1}{2}$ parking space per unit and the number of parking spaces can continue until such time as the City Council finds that a need for additional parking spaces has been demonstrated.

Fitness centers, libraries, museums, art galleries

At least one parking space for each 300 square feet of floor area, plus one space per employee on the largest work shift.

Hotels, motels

One parking space for each living or sleeping unit, plus one parking space per employee on the major shift. Facilities other than guest rooms, including restaurants, bars, conference rooms and the like shall provide parking spaces as specified in other sections of this chapter.

Manufacturing, fabricating, or processing of a product or material

One parking space for each 500 square feet of floor area, plus one parking space for each company-owned truck (if not stored inside the principal building).

Medical and dental facilities

Six parking spaces per doctor/dentist/therapist, plus one space per employee or one space per 200 square feet of floor area, whichever is greater.

Motor fuel station

At least four off-street parking spaces plus two off-street parking spaces for each service stall. Those facilities designed for sale of items other than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this chapter.

Office buildings, animal hospitals, and professional offices

Three parking spaces plus at least one parking space for each 200 square feet of floor area.

Personal business services (beauty/barber/tanning salons, chiropractic and massage clinics, counseling services)

One parking space per employee, plus 1 ½ spaces per employee station or one space per 200 square feet of floor area, whichever is greater.

Pre-school

One space per three children of licensed capacity of the facility.

Retail store and service establishment

At least one off-street parking space for each 200 square feet of floor area.

Retail sales and service business with 50% or more of gross floor area devoted to storage and/or warehouses

At least eight parking spaces or one parking space for each 200 square feet devoted to public sales or service plus one parking space for each 500 square feet of storage.

Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, nightclubs

At least one parking space for each 40 square feet of gross floor area of dining and bar area and one parking space for each 80 square feet of kitchen area.

School (kindergarten through 8th grade)

At least one parking space for each classroom plus one additional parking space for each 50 student capacity, in addition to other uses which shall be calculated separately.

School (9th grade through college) and private schools where busing is not provided to students

At least one parking space for each five students based on design capacity plus one parking space for each classroom, in addition to other uses which shall be calculated separately.

Warehousing, storage or handling of bulk goods

One parking space for each employee on the maximum working shift, plus one parking space for each company-owned truck stored outside the principal building, or a minimum of one parking space for each 2,000 square feet, whichever is greater.

Other uses

Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determinations shall include (without limitation) the size of the building, the type of use, the number of employees, the expected volume and turnover of customer traffic, and the expected frequency and number of delivery or service vehicles.

(14) Proof of parking. If it is clearly demonstrated by the owner that the required parking is in excess of the actual demand, and the City Council approves, all of the required parking need not be initially constructed. The remainder of the parking spaces not initially needed, as shown on the site plan, are to be constructed by the owner when the city determines that the additional parking spaces are needed. The area of future parking must be sodded and kept free of buildings, shrubs and trees.

(15) Joint facilities. The City Council may approve a conditional use permit for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided is less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Council shall not approve such a permit except when the following conditions are found to exist:

(a) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(c) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to

form and manner of execution by the City Attorney, shall be filed with the City Administrator and recorded with the County Recorder's Office.

(16) Off-site parking.

(a) Any off-site parking which is used to meet the requirements of this chapter shall be a conditional use as regulated by § 155.440 and shall be subject to the conditions listed below.

(b) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this chapter.

(c) Reasonable public access from off-site parking facilities to the use being served shall be provided.

(d) The site used for meeting the off-site parking requirements of this chapter shall be under the same control as the principal use being served or under public ownership. Any use which depends upon off-site parking to meet the requirements of this chapter shall maintain ownership or leasehold control and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

(e) Off-site parking for non-residential uses shall not be located more than 300 feet from the main entrance of the principal use being served. No more than one main entrance shall be recognized for each principal building.

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 121, passed 2-23-99; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0312, passed 10-14-03; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1901, passed 1-8-19; Am. Ord. 1902, passed 5-14-19; Am. Ord. 1905, passed 12-10-19; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.051 LOADING.

(A) Purpose. The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public rights-of-way, and so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) Exemptions from off-street loading requirements. All business uses located within the B-2, Central Business District shall be exempt from the following off-street loading requirements of this chapter.

(C) Location.

(1) All required loading areas shall be off-street and located on the same lot as the building or use to be served.

(2) All loading area curb cuts shall be located at a minimum of 50 feet from the intersection of two or more street rights-of-way. This distance shall be measured from the property line.

(3) Except for loading areas required for multiple dwellings, no loading berth shall be located closer than 30 feet to a residential district unless within a structure.

(4) Loading areas located at the front, or at the side of buildings on a corner lot:

(a) Shall not conflict with pedestrian movement;

(b) Shall not obstruct the view of the public right-of-way from off-street parking access;

(c) Shall comply with all other requirements of this section.

(5) Each loading area shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.

(D) Surfacing. All loading areas and accessways shall have a brick, concrete, or bituminous surface graded and drained to dispose of all surface water.

(E) Accessory use, parking, and storage. Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles, or snow and shall not be included as part of the space requirements to meet the off-street parking area.

(F) Screening. Except in the case of multiple dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with § 155.031.

(G) Size. Unless otherwise specified in this chapter, the first loading area shall be not less than 70 feet in length and additional berths required shall be not less than 30 feet in length and all loading berths shall be not less than 10 feet in width and 14 feet in height, exclusive of aisle and maneuvering space. Variation to this standard may be allowed based on, but

not limited to, documented evidence of need, site character, structure use, lot size, etc.

(H) Number of loading areas required. The number of required off-street loading areas shall be as follows:

(1) Non-residential buildings and uses, except when located in any Residential or Public-Institutional zoning district: For each building one loading area and one additional area for each additional 10,000 square feet or fraction thereof;

(2) Multiple-family dwellings: Where such building has 10 or more dwelling units, one loading area per structure.

(I) Off-street loading required. Any structure erected or substantially altered for a use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading space as required for a new structure.

(Ord. 110, passed 11-15-97; Am. Ord. 1506, passed 9-8-15) Penalty, see § 155.999

§ 155.052 SINGLE-FAMILY HOUSING.

Single-family housing may be located within the A-1, R-1, R-1a, R-2, and RR Zoning Districts upon compliance with the following conditions:

(A) Single-family houses shall comply with all zoning regulations for the zone in which they are located.

(B) A building permit and any other required permits shall be obtained for single-family housing.

(C) No single-family home erected in the city after the effective date of this chapter, built in conformance with M.S. §§ 327.31 through 327.35 shall be constructed unless built on a full foundation, which foundation is underneath the entire structure including attached garages and which foundation complies with the State Uniform Building Code. Except for the following additions that may be placed on pier footings:

(1) Open decks;

(2) Covered porches, provided that the floor height is three feet or less above ground level;

(3) Covered porches with a floor height exceeding three feet above ground level, provided that such porch does not exceed 300 square feet in area or if larger than 300 square feet, engineering documentation is required; and

(4) Room additions to living area, not exceeding 300 square feet in area; or if larger than 300 square feet, engineering documentation is required.

(D) Additionally, the perimeter foundation need not be continuous in the area of an elevated breezeway or similar architectural feature that connects the home to a garage or similar structure.

(Ord. 110, passed 11-15-97; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0903, passed 10-27-09; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.053 SEWAGE DISPOSAL.

(A) Objectives and title. The objectives of the city are to provide to the extent possible with on-site systems adequate and safe methods of sewage disposal and to prevent the contamination of any existing or future water supply by existing or future sewage disposal systems. To accomplish this objective, the city adopts the Minnesota Rules Chapter 7080, Individual Sewage Treatment Systems Program, as its Sewage Disposal Chapter. However, the systems, procedures, and other requirements of this chapter are not to be construed such as to afford direct protection to an individual landowner, but rather the purpose of this chapter is to adopt a general public policy relating to sewage disposal and clean water supplies.

(B) Definitions and interpretation. For the purpose of this section, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, the words "should" and "may" are permissive. All distances, unless otherwise specified, shall be measured horizontally. Definitions are listed in Minnesota Rules, part 7080.0020, with the following additions:

ADMINISTRATOR. The Building Official.

AGENCY APPROVED DISPOSAL FACILITY. Any disposal facility which has a National Pollutant Discharge Elimination System (NPDES) Permit or State Disposal System Permit or letter of approval from the agency.

(C) Amendments. The city requires that the following amendments to Minnesota Rules Chapter 7080 shall take precedence on the construction of on-site sewage disposal systems:

(1) All on-site sewage disposal systems shall be constructed with two 1,000-gallon single compartment septic tanks and a minimum of 1,250 square feet of drain field.

(2) All on-site disposal systems with pumps shall be constructed with a 1,000-gallon pump chamber in addition to the two 1,000-gallon tanks.

(3) (a) The square footage required for mound systems will be sized according to the total gallons per day (g.p.d.) with no 0.83 sizing reduction. This will provide consistency and simplify the sizing of mound systems. For example, a two-bedroom house with 300 g.p.d. will be sized at 300 square feet, a three-bedroom house with 450 g.p.d. will be sized at 450 square feet.

(b) The new sizing requirement should in no way draw attention away from the necessity for clean washed sand or take away the ability of the site evaluator/installer to size the mound system larger due to other circumstances such as an oversized bathtub/whirlpool.

(4) For soils with a percolation rate of one minute per inch or faster, at least 12 inches of loamy sand textured soil with a percolation rate between six and 15 minutes per inch at the original site must be placed between the drain field rock and the coarse soil along the excavation bottom and sidewalls. The size of the soil treatment system must be based on the required treatment area for a soil having a percolation rate of 16 to 30 minutes per inch or the minimum county requirements per bedroom, whichever is greater. For soils with a percolation rate between one and five minutes per inch, the special considerations for rapidly permeable soils in Minnesota Rules Chapter 7080 must be followed.

(5) Where centralized sanitary sewer is available, septic compliance verification must be provided to the city's Building Official for review and acceptance when a building permit is applied for any living area expansion or remodel as determined by the Building Official. Should the Building Official find the existing sewage disposal system is in non-compliance with Minnesota Rules Chapter 7080, the owner of the property shall be required to hook up to city sanitary sewer where available within six months of issuing a building permit.

(D) Permits. No person, firm, or corporation shall install, alter, repair, or extend any individual sewage disposal system in the city without first obtaining a permit therefor from the city or its authorized representative for the specific installation, alteration, repair, or extension. A permit shall be valid for a period of six months from date of issue, subject to the fees according to the current fee schedule.

(E) Inspection.

(1) For new construction, the Building Official shall make such inspection or inspections as are necessary to determine compliance with this chapter. No part of the system shall be covered until it has been inspected and accepted by the Building Official. It shall be the responsibility of the applicant for the permit to notify the Building Official that the job is

ready for inspection or reinspection, and it shall be the duty of the Building Official to make the indicated inspection within 24 hours after such notice has been given. It shall be the duty of the owner or occupant of the property to give the Plumbing Inspector free access to the property at reasonable times for the purpose of making such inspection.

(2) Upon completion of the installation or renovation of an on-site system the system owner or agent shall submit a description of the system as installed to the Building Official. The description shall include site address, location, and layout of the system on the site, the type and design of system installed, the type of building served, and the results of the site suitability analysis (percolation tests and/or soil borings).

(F) Certification. No person shall engage in the business of or perform for others the service of soil and percolation testing and site evaluation, installing, renovating, repairing, or pumping and cleaning sewage treatment systems within the city without first obtaining MPCA Certification, as defined in Minnesota Rules Chapter 7080.

(G) System inventory. The Building Official shall create, update, and maintain an accurate inventory of all new and renovated individual sewage disposal systems within the city corporate limits. Information to be recorded shall include, but not be limited to:

- (1) Location;
- (2) Description of original installation;
- (3) Improvement made;
- (4) Pumping records;
- (5) Soil types.

(H) Administration.

- (1) Enforcement.

(a) Any person who commits any of the following acts or violates any of the provisions of this chapter which prescribe that certain action is unlawful shall be guilty of a misdemeanor, and upon conviction thereof shall be penalized as provided in § 155.999; each day that unlawful activity continues shall constitute a separate violation:

1. Disposes of sewage or installs or renovates an individual sewage treatment system without first having received a permit as provided herein;
2. Installs or renovates an individual sewage treatment system or discharges sewage in a manner which involves the knowing and material

variation from the terms and specifications contained in the application or permit;

3. Violates the terms of an order issued pursuant to the provisions contained herein.

(b) The Building Official may by written order suspend or revoke any disposal or system permit when he or she has information indicating that the permit has been issued in error or on the basis of incorrect or inadequate information or that work is not being performed in compliance with this chapter or the provisions of any permit issued hereto.

(2) Cease and desist orders.

(a) The City Attorney may issue an order to the owner or occupant of any premises utilizing an individual sewage treatment system to cease and desist the use of any system which is operating in manner creating substantial hazard to the public, health, safety, or welfare or which has not been repaired in accordance with the provisions of an order issued. A noticed public hearing shall be held within 14 days following the issuance of such an order to determine whether the order should be continued in force and effect.

(b) The city may cause to be assessed against the property on which an individual sewage treatment system is located the cost of proper closure, restoration, and cleanup of pollution occurring as a result of a system failure. Upon certification by the accountant of the cost incurred, the City Administrator shall cause the cleanup assessment to be levied against the property on which the system is located.

(3) Liability. The Building Official or any employee of the city charged with the enforcement of this section, acting in good faith and without malice for the discharge of his duties, shall not thereby render him- or herself personally liable and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Building Official or employee because of such act or omission performed by him or her in the enforcement of any provision of this chapter shall be defended by the legal department of the city until final termination of the proceedings.

(4) Cooperation of other officials. The Building Official may request, and shall receive so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of the other officials of the city.

(5) Appeals and variances. Appeals from the Building Official's decision and requests for variances as to any provisions of this section may be made to the city. The Planning Commission may grant a variance to the strict

terms or requirements of this chapter as it affects specific tracts of land if it finds that:

(a) It is shown by reason of topography or other physical conditions that strict compliance with the chapter's requirements could cause an exceptional and undue hardship to the enjoyment of a substantial property right;

(b) By the granting of the variance, the spirit and intent of the chapter will not be adversely affected;

(c) The variance will not be injurious to the health and/or general welfare of:

1. The users of the system for which the variance is sought;
2. The adjacent property owners; and
3. The general community as a whole;

(d) The establishment, maintenance, or operation of the system as permitted by the variance will not be detrimental to or endanger the public health, safety, or general welfare and is not contrary to established standards, regulations, or ordinances of other governmental agencies.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1106, passed 8-9-11) Penalty, see § 155.999

Cross-reference:

Private wastewater disposal, see § 51.03

§ 155.054 SWIMMING POOLS.

(A) Definitions. In this section SWIMMING POOL means any pool, tank, depression or excavation in or above-ground, or other structure which shall cause or has the capacity to retain water with a depth greater than 30 inches which shall be designed for the intent to be used for swimming, wading, or immersion purposes by individuals.

(B) Permit required.

(1) No person shall construct, alter or renovate a swimming pool without an approved building permit.

(2) The application for a permit must include the following:

(a) Complete plans and specifications for the construction of the pool;

(b) A site plan showing the distance of the proposed swimming pool from the property lines, existing structures on the lot, including the house, garage, and fences, retaining walls, trees, overhead and underground wiring, utility easements; any on-site sewer system and other significant features.

(c) The proposed location of pumps, filters, motors, electrical power source, if any, flushing and drainage outlets, and other operational features; and

(d) Location and specifications of protective fencing, including a construction fence.

(C) Location.

(1) Swimming pools shall not be located beneath utility lines nor over underground utility lines of any type.

(2) No person, firm or corporation shall build, situate or install a swimming pool within 10 feet of any side property line and 15 feet from any rear property line, nor within 10 feet of any principal structure, excluding uncovered decks, nor closer to the front property line than the principal structure. Corner lots are permitted to install swimming pools within the front yard that is opposite the interior side yard, but it must meet the required front yard setback.

(3) No swimming pool shall be located within ten feet to any portion of a septic tank or within 20 feet of an area designated as a drainfield, alternate drainfield or well.

(4) No pool shall be located within any public or private utility easement, ingress or egress easement, swale or existing drainage areas which may be affected by 100 year rain event levels, wetlands, floodplains or other location in which it will represent a threat to the natural environment.

(D) Fence requirements - general. All swimming pools shall be completely enclosed by a type of fence meeting the following general requirements:

(1) The fence shall be of the non-climbing type, so as not to be penetrable by toddlers and afford no external handholds or footholds.

(2) The bottom of the fence shall be no higher than four inches above grade at any given point.

(3) All fence openings or points of entry into the pool area enclosure shall be equipped with self-closing and self-latching gates. The self-latching device must be placed at the top of the gate or so it is inaccessible to small children.

(4) All swimming pool fences shall meet the regulations set forth in § 155.030.

(E) Fence requirements - specific.

(1) Construction fence. A construction fence shall completely enclose any in-ground pool preceding the erection of a permanent fence described in division (D)(1). The construction fence shall be a minimum of six feet in height, made of snow fence-like or similar design and be securely anchored in place with its base flush to the ground. It must have supportive posts placed no more than eight feet apart and remain in place until a permanent fence completely enclosing the swimming pool is installed. No swimming pool, even though containing water for construction purposes, shall be occupied or used at any time prior to the installation of a permanent fence.

(2) In-ground pools. A safety fence at least six feet in height shall completely enclose any in-ground swimming pool. As an alternative to a safety fence, an automatic pool cover may be utilized if it meets the standards of F1346-91 (reapproved 1996) of American Society of Testing and Materials (ASTM), as such standards may be modified, superseded, or replaced by ASTM, if all of the following requirements are met:

(a) The property on which the in-ground pool is located is zoned A-1 Agricultural;

(b) The property upon which the in-ground pool is located does not abut a residential zoning district;

(c) The property upon which the in-ground pool is located is five acres or larger in area;

(d) The in-ground pool is set back a minimum of 150 feet from the side and rear property lines and 300 feet from an existing non-owner occupied dwelling. The 150-foot setback may be waived if the side or rear lot line of the parcel upon which the in-ground pool is located is adjacent to a public body of water as identified on the Minnesota DNR Public Water Inventory Map and the required minimum shoreland setbacks are met.

(3) Above-ground pools. A fence at least four feet in height shall completely enclose any above-ground swimming pool.

(4) Above-ground pools with accessory decks. If an accessory deck is constructed within three feet of any part of the above-ground swimming pool, the deck shall be required to install a minimum 36 inch high guard rail. The guard rail shall be constructed so no space within it is wider than four inches. All openings or points of entry into the above-ground pool shall be equipped with self-closing and self-latching gates.

(5) Outdoor spas and hot tubs. Outdoor spas and hot tubs, of any size, must be covered when not in use and shall have a latchable cover or surrounded by a four-foot non-climbing fence. The cover should be constructed of a material not to be penetrable by toddlers and is subject to the inspection by the Building Official or designee.

(F) Miscellaneous requirements.

(1) Conduct. The conduct of persons and the operation of pools is the responsibility of the owner or the tenant thereof, and such conduct of persons and operation of the pool shall be done in such a manner so as to avoid any nuisance or breach of peace, and it shall be unlawful to allow loud noise to go beyond the boundaries of the property upon which the pool is located to adjacent property.

(2) Drainage. All back flushing water or pool drainage water shall be directed onto the property of the owner or onto approved drainage ways, such as street curb, ditches, storm sewers, and storm water ponds.

(3) Lighting. Any outdoor lighting of the pool may not spill or shine upon adjacent properties. For all underground pool lights and above ground plug-in motors, compliance with the Electrical Code is required.

(G) Retroactivity. The provisions of this chapter shall apply retroactively only with regard to the safety features, such as wiring and fencing to all existing above-ground swimming pools, and the owners shall have until June 1, 2009, to conform to the requirements herein.

(H) Penalty. Any person violating any provision of this section shall be guilty of a misdemeanor and shall be punishable as provided in § 155.999. Each day on which such violation continues shall constitute a separate offense.

(Ord. 0803, passed 4-22-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1902, passed 5-14-19)

USE STANDARDS

§ 155.065 HOME OCCUPATIONS.

(A) Purpose. The purpose of this section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. In addition, this section is intended to provide a mechanism enabling the distinction

between permitted home occupations and special or customarily “more sensitive” home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

(B) Applicability of provisions. Subject to the nonconforming use provision of this section, all occupations conducted in the home shall comply with the provisions of this section. This section shall not be construed, however, to apply to home occupations accessory to farming.

(C) Procedures and permits; fee.

(1) Permitted home occupations. Any home occupation as defined in this chapter shall require a “limited home occupation permit.” The permit shall be issued subject to the conditions of this section, other applicable city ordinances and code provisions, and state law. This permit may be issued by the Zoning Administrator or his or her agent based upon proof of compliance with the provisions of this section. Application for the “limited home occupation permit” shall be accompanied by a fee as established by City Council resolution. If the Zoning Administrator denies a permitted home occupation permit to an applicant, the applicant may appeal the decision to the Planning Commission. The Planning Commission shall make a recommendation to the City Council, which shall make the final decision. Any permit issued shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this section have been breached. At such time as the city has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

(2) Special home occupation.

(a) Generally; permit required. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this section shall require a “special home occupation permit” which shall be applied for, reviewed, and issued in accordance with the procedural provisions of § 155.441.

(b) Declaration of conditions. The Planning Commission and City Council may impose such conditions on the granting of a special home occupation permit as may be necessary to carry out the purpose and provisions of this section.

(c) Term of permit.

1. Initial permit. An initial special home occupation permit may be issued by the City Council for a period of one year.

2. Renewal permit. After the initial one year permit in division 1. above, the Zoning Administrator may administratively reissue a special home occupation permit without following procedural provisions of § 155.441. The Zoning Administrator's decision may be appealed to the Planning Commission in accordance with the procedure and requirements set forth in § 155.442(B)(4) of this chapter.

(d) Transferability. Permits shall not run with the land and shall not be transferable.

(e) Lapse of permit by nonuse. If, within one year after granting a permit, the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such petition shall be required in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(f) Reconsideration of application denial. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial unless a decision to reconsider such matter is made by not less than a four-fifths vote of the full City Council.

(g) Renewal of permits. An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his or her monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. The previous granting or renewal of a permit shall not constitute a binding precedent or basis for the renewal of a permit.

(D) Requirements—general provisions. All home occupations shall comply with the following general provisions and, according to definition, the applicable requirement provisions.

(1) General provisions.

(a) No home occupation shall produce light, glare, noise, odor, or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

(b) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

(c) Any home occupation shall be clearly incidental and secondary to the residential use of the premises shall not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

(d) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.

(e) There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.

(f) The home occupation shall meet all applicable fire and building codes.

(g) Exterior signage may be displayed identifying the presence of a permitted home occupation on the property, provided it complies with the regulations of § 155.496.

(h) All home occupations shall comply with the provisions of the City Nuisance Ordinance.

(i) No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. unless the occupation is contained entirely within the principal building and will not require any on-street parking facilities.

(j) Customer visits to the home occupation shall be arranged by appointment with no more than one customer scheduled to be on the premises at any given point in time.

(2) Requirements—permitted home occupations. The following restrictions shall apply to permitted home occupations:

(a) The home occupation shall only employ persons who constantly reside on the premises.

(b) All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in attached or detached accessory buildings.

(c) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway.

(d) Examples of permitted home occupations include: art studios, dressmaking, secretarial services, professional offices, teaching with musical, dancing, and other instructions which consist of no more than one pupil at a time, and a day care facility, not serving more than 12 children, as licensed by state statutes.

(e) The permitted home occupation shall not involve any manufacturing which requires equipment other than found in a dwelling; teaching which customarily consists of more than one pupil at a time; or over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

(3) Requirements—special home occupations. The following restrictions shall apply to special home occupations:

(a) No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-residential assistance and that this exception would not compromise the intent of this chapter.

(b) All special home occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings.

(c) Examples of special home occupations include: barber and beauty services, photography studios, group lessons, saw sharpening, small appliance, small engine repair, and the like.

(d) The home occupation may involve any of the following: stock-in-trade incidental to the performance of the service, repair or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing, and other instruction of more than one pupil at a time.

(e) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on-street parking facilities are necessary, however, the City Council shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

(E) Nonconforming uses. Existing home occupations lawfully existing on the date of this chapter may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than 30 days, or is in violation of the ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this section.

(F) Inspection. As a condition of any home occupation application and approval, the property owner shall grant license to the city to enter the property for periodic inspection. The city hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this section or any conditions additionally imposed.

(Ord. 110, passed 11-15-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1905, passed 12-10-19) Penalty, see § 155.999

Cross-reference:

Nuisances, see Ch. 91

§ 155.066 HOME EXTENDED BUSINESSES.

(A) Purpose. The purpose of this section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home extended businesses can be conducted in the A-1 District without jeopardizing the health, safety, and general welfare of this community.

(B) Application. Subject to the nonconforming use provision of this section, all home extended businesses shall comply with the provisions of this section, and requirements as found in § 155.441.

(C) Requirements. The minimum requirements for a home extended business shall be:

(1) Businesses must be located on the homestead of the business operator.

(2) There shall be no more than three employees in addition to the owner/operator.

(3) There shall be no outside storage of supplies, equipment, or maintenance items; all work and work-related items shall be kept in an enclosed structure.

(4) There shall be provided two parking spaces per employee.

(5) Excessive noise levels are prohibited (i.e., those which may be considered a nuisance, L10 at 55 dBA decibels as regulated in MPCA regulations).

(6) There shall be no more than 30% lot coverage by the home extended business.

(7) The site must be capable of supporting on-site sanitary sewer and water facilities adequate to service the home extended business in accordance with this section.

(8) All effluent consisting of any liquid, gaseous, or solid waste substance resulting from any process of manufacturing (i.e., sewage or industrial waste) shall not be discharged into the soil, water, or air unless it

is at a location determined appropriate by the City Council and/or the Minnesota Pollution Control Agency.

(9) A contract between the refuse hauler and the owner shall be provided for all other waste including but not limited to garbage, recyclable materials, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil, tar, chemicals, offal, and all other substances not sewage or industrial waste which may pollute the waters of the state. The contract shall be provided prior to issuance of the conditional use permit and shall cite the destruction of the waste and shall be renewed annually on or before January 1 of every year.

(10) Working hours shall be set by the City Council.

(11) If located on a city road, a letter of agreement containing any dust control measures determined necessary by the city shall be provided prior to issuance of the conditional use permit and renewed annually (January 1 of every year).

(12) All posted road limits shall be obeyed.

(13) The distance from the extended home business building to the nearest residence shall be at least 200 feet.

(14) The home extended business must be outside of platted areas.

(15) An accessory structure occupied by a home extended business shall be no larger than 2,000 square feet.

(16) After four founded nuisance or permit violation complaints have been made and verified with written notice to the holder of the conditional use permit, a hearing shall be called to reconsider the conditional use permit within 60 days.

(17) The building must conform to the principal buildings and to the neighborhood.

(D) Nonconforming uses. Existing home extended businesses lawfully existing on the date of this chapter may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home extended business that is discontinued for a period of more than 30 days or is in violation of the ordinance or code provisions under which it was initially established shall be brought into conformity with the provisions of this section.

(E) Inspection. The city hereby reserves the right upon issuing any conditional use permit for home extended businesses to inspect the premises in which the business is being conducted to insure compliance with the provisions of this section or any conditions additionally imposed.

(Ord. 110, passed 11-15-97; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1407, passed 12-23-14; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.067 OUTDOOR TEMPORARY SEASONAL SALES.

(A) Purpose. The purpose of this section is to establish minimum standards for outdoor temporary seasonal sales on commercial properties without adversely affecting the operation of nearby businesses or the character of surrounding residential neighborhoods and properties and without creating a general nuisance.

(B) Application. Outdoor temporary/seasonal sales shall require an interim use permit and shall comply with the procedures and standards set forth in § 155.441.

(C) Requirements. Outdoor temporary/seasonal sales must comply with the following special requirements:

(1) No portion of this use shall take place within any public right-of-way or landscaped areas;

(2) Parking and display areas associated with the sale shall not distract or interfere with existing business operations or traffic circulation patterns;

(3) The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing businesses, parking or driveway operations;

(4) Sales merchandise trailers, temporary stands, etc., shall be located on an asphalt or concrete surface;

(5) One temporary sign not to exceed 24 square feet in area and not more than six feet in height shall be allowed;

(6) The owner/operator of the outdoor temporary/seasonal sales shall have the written permission of the current property owner to locate on the site; and

(7) The owner/operator of the outdoor temporary/seasonal sales shall comply with a daily clean-up program approved by the city.

(Ord. 2001, passed 7-14-20)

§ 155.068 ADULT USES.

(A) Purpose. The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are

accessible to minors and located near residential property or related residential uses such as schools, day-care centers, libraries, or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses nor contribute to the blighting or downgrading of the surrounding property and lessening of its value.

(B) Generally. Adult uses as defined in this chapter shall be subject to the following general provisions:

(1) Activities classified as obscene as defined by M.S. § 617.241 are not permitted and are prohibited.

(2) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(3) Adult uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense or consume alcoholic beverages.

(4) An adult use which does not qualify as an accessory use shall be classified as a principal adult use.

(C) Adult uses—principal. Principal adult uses shall be subject to the following provisions:

(1) A minimum of 300 radial feet, as measured in a straight line from the lot upon which the principal adult use is located, shall be required from the property line of:

- (a) Residentially zoned property or residential uses;
- (b) A licensed day-care center;
- (c) A public or private educational facility classified as an elementary, junior high, or senior high school;
- (d) A public library;
- (e) A public park;
- (f) Another principal adult use;
- (g) An on-sale liquor, wine, or beer establishment;
- (h) A church.

(2) Principal adult uses shall be located at least 300 radial feet from one another.

(3) Principal adult use activities, as defined by this chapter, shall be classified as one use. No two principal adult uses shall be located in the same building or upon the same property.

(4) A principal adult use shall adhere to the following signing regulations:

(a) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted;

(b) Signs shall not contain material classified as advertising; and

(c) Signs shall comply with the requirements of size and number for the district in which they are located.

(5) Principal adult use activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted.

(D) Adult uses—accessory.

(1) An accessory adult use shall:

(a) Comprise no more than 5% of the floor area of the establishment in which it is located;

(b) Comprise no more than 10% of gross receipts of the entire business operation;

(c) Not involve or include any activity except the sale or rental of merchandise.

(2) An accessory adult use shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access. The business owner shall take every reasonable precaution to limit access to minors.

(a) Movie rentals. Display areas shall be restricted from general view and shall be situated in such a fashion as to prohibit access and visibility to minors, the access of which is in clear view and under the control of the persons responsible for the operation.

(b) Magazines. Publications classified or qualifying as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

(c) Other uses. Accessory adult uses not specifically cited shall comply with the intent of this section subject to the approval of the City Council.

(3) Accessory adult uses shall be prohibited from both internal and external advertising and signing of adult materials and products.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.069 SANITARY LANDFILLS.

The City Council shall not approve any applications for a permit to establish a sanitary landfill, nor approve any conditional use which establishes a sanitary landfill.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.070 ANIMALS.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL USE. The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

(1) Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers;

(2) Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals such as ponies, deer, and mink;

(3) Livestock products, including: milk, butter, cheese, eggs, fur, and honey.

ANIMAL UNIT.

(1) A unit of measure used to compare differences in the production of animal waste which has as a standard the amount of waste produced on a regular basis by a slaughter steer or heifer.

(2) For purposes of these regulations, the following equivalents apply. Equivalents for other animals shall be defined by the Minnesota Pollution Control Agency.

Animal	Animal Units
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One slaughter steer or heifer (all cattle)	1.0
One mature dairy cow	1.4
One swine over 55 pounds	.4
One sheep	.1
One turkey	.018
One chicken	.01
One duck	.02
One horse	1.0

(B) Livestock and other animals.

(1) Livestock, poultry, and farm animals shall only be kept on any residential lots or parcels of at least four acres in size or in an agricultural district of the city. Animals shall be allowed at a maximum density of .50 animal unit per acre. These restrictions shall not apply to normal farm operations existing prior to the adoption of this chapter. Livestock shall include those animals listed in division (A)(2) above under the definition of "agricultural use."

(2) In the zoning districts identified in division (B)(1) above, on parcels over four acres in size, animals and the permitted animal density shall be governed by any applicable Minnesota Pollution Control Agency regulation and the city's feedlot ordinance as may be amended from time to time.

(3) Any building where livestock, farm animals and poultry are kept, open feedlots, and solid manure storage areas, including short term stockpiling sites shall be setback a distance of 100 feet from the property line or road easement and shall conform to the setbacks listed in § 155.071; setbacks from dwelling units shall be maintained as outlined in § 155.071. For regulations regarding pre-ordinance feedlots and post-ordinance feedlots, see § 155.071(H)(1)(d)2.(a and b).

(4) In all zoning districts, the manure from livestock and domestic pets shall be properly treated and disposed of with best management practices and shall not be allowed to accumulate in any manner which may cause public health problems.

(5) The keeping of more than two dogs on any parcel for any reason shall be deemed a kennel. Kennels are permitted only to those holding a kennel license.

(Ord. 110, passed 11-15-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1603, passed 3-8-16) Penalty, see § 155.999

Cross-reference:

Animals; dogs; number permitted on one premises, see § 90.12

§ 155.071 FEEDLOTS.

(A) Title. This section shall be known, cited and referred to as the St. Michael Feedlot Ordinance.

(B) Statutory authority. This section is adopted pursuant to the authorization and policies contained in M.S. §§ 103B.301 through 103B.335, Minnesota Pollution Control Agency Rules, Parts 7020.0100 through 7020.1900, and M.S. § 412.221, Subd. 32.

(C) Intent and purpose.

(1) The production of farm animals and other agricultural products is an important part of the history, environment, and economy of the city. Livestock, poultry, dairy products, and other agricultural commodities are produced within the city for consumption in the state, the United States, and foreign countries. The continued health of the agricultural community and the production of these products are essential to the economic well being of the city and its residents.

(2) The city also contains a wealth of natural resources including an abundance of surface and ground water. These resources must be protected from pollution to ensure the health of the public and to maintain safe, high quality water for recreational, residential, agricultural, and commercial use. The following regulations have been established to protect natural resources and the quality of life in the city while recognizing the importance of animal agriculture and the beneficial uses of animal manure in the production of agricultural crops.

(3) It is the intent and purpose of this section to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community within the city while ensuring that animal feedlots and animal wastes are properly managed to protect the health of the public and the city's natural resources.

(4) Therefore, this section is adopted for the purpose of:

(a) Establishing a procedure for the permitting of feedlots.

(b) Regulating the location, development, operation and expansion of feedlots.

(c) Promoting best farm management practices.

(d) Protecting ground and surface water resources.

(e) Minimizing environmental problems.

(D) General provisions.

(1) Jurisdiction. The jurisdiction of this section shall apply to all the areas within the corporate limits of the city.

(2) Scope.

(a) From and after the effective date of this section and subsequent amendments, the use of all land and every building or portion of a building used for a feedlot or as part of a feedlot in the city shall be in conformity with the provisions of this section. Pre-existing structures which are not in conformity with the setback and area provisions of this section, but were in conformity with the standards established by the Zoning Ordinance and the County Zoning Ordinance, when applicable, shall be allowed if a potential pollution hazard does not exist and the registration procedures in division (G) are complied with.

(b) A feedlot that is non-conforming because of excessive animal unit numbers, which exists at the time of adoption of this section, may be continued, provided that the number of animal units does not increase. Whenever a non-conforming feedlot has reduced its animal unit numbers over a period of more than one year to a lesser number of animal units, such animal unit numbers shall not thereafter be increased.

(3) Application.

(a) In the city's interpretation and application, the provisions of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

(b) Where the conditions imposed by any provision of this section are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(4) Measurements. All stated and measured distance shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(5) Compliance. The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this section, the Zoning Ordinance, and the provisions of Minnesota Pollution Control Agency Rules, Chapter 7020.

(E) Definitions.

(1) Rules of interpretation. For the purpose of this section, certain terms or words used herein shall be interpreted as follows:

(a) The word “shall” is mandatory, and not discretionary; the word “may” is permissive; the word “person” shall include individuals, businesses and corporations;

(b) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular;

(c) Words shall be given their common usage if not defined;

(d) The words “used for” shall include the phrases “arranged for,” “intended for,” “maintained for” and “occupied for”;

(e) The masculine gender shall include the feminine and neuter;

(2) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except for those words and phrases defined below, the words and phrases used in this section shall be interpreted to be given the meaning in common usage, so as to give this section its most reasonable application.

AGENCY. The Minnesota Pollution Control Agency as established in Minnesota Statutes, also sometimes referred to as the MPCA.

ANIMAL MANURE. Poultry, livestock or other animal excreta or a mixture of excreta with feed, bedding or other materials.

ANIMAL UNIT. A unit of measure used to compare differences in the production of animal manures which has as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this section, the definition and units of measure contained in Minnesota Rules Part 7020.0300, Subpart 5 shall apply.

BLUFF. Defined as set forth in § 155.009 of this chapter.

BLUFF IMPACT ZONE. Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

BUILDING. Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when

said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING, AGRICULTURAL. All buildings, other than dwellings, which are incidental to a farming operation.

CITY OF ST. MICHAEL, MINNESOTA. City, municipal corporation, or municipality.

CITY COUNCIL. The governing body for the City of St. Michael.

COMMISSIONER. The Commissioner of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes.

CONDITIONAL USE PERMIT. A permit specifically and individually granted by the City Council pursuant to the provisions of this chapter.

CONSTRUCTION SHORT FORM PERMIT. A permit giving permission for construction or expansion of a feedlot or manure storage area when, as determined by the city, there is not a pollution hazard.

COUNTY. Wright County, Minnesota.

DOMESTIC FERTILIZER. An animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or animal manure that is used as compost, soil conditioners, or specialized plant beds.

DRAINAGE WAY. Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

FAMILY. One or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FAMILY, IMMEDIATE. Persons related by blood, marriage, or certified legal instrument.

FEEDLOT ADMINISTRATOR. The City's Zoning Administrator, or other staff as directed by the Zoning Administrator, which may include a county employee, appointed by the County Board of Commissioners, working with the city to administer the provisions of this section. The Feedlot Administrator shall have the same duties and powers as a Feedlot Officer as defined by Minn. Rule 7020.

FEEDLOT, ANIMAL. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Pastures shall not be considered animal feedlots under these rules. Fish farms [aquaculture] shall be considered feedlots for the purposes of this section.

FEEDLOT, NEW ANIMAL. An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five years or more.

FEEDLOT, OPERATOR. A person, corporation, group of individuals, partnership, joint venture, owner or any other business entity having charge or control of one or more animal feedlots, poultry lots or other animal lots.

FEEDLOT PERMIT. A document issued by the agency, city, or county which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants.

FEEDLOT, RUNOFF. The movement of water from a feedlot, either in the form of rainfall, snow melt, or as water from a waterway, ditch, drainage way, and the like passing over a feedlot, carrying particles of manure into a body of water or to a channelized flow environment and thereby constituting a potential pollution hazard.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

FLOOD FRINGE. That portion of the flood plain outside of the floodway. FLOOD FRINGE is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the city.

FLOOD PLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood and as defined in § 155.365.

HOLDING POND. A storage facility, usually earthen, where feedlot runoff and other diluted wastes are stored before final disposal. It is not designed for treatment of waste.

IMMEDIATELY INCORPORATED. Manure or process wastewaters tilled into the soil within 24 hours of application and prior to rainfall.

INTERIM PERMIT. A permit identifying the necessary corrective measures to abate potential pollution hazards and defining a length of time to correct the problem.

LAGOON, ANIMAL. An impoundment made by excavation of earth fill and/or construction of an earthen berm for the biological treatment of animal or other agricultural waste.

MAJOR GROWTH AREAS. Areas within the city where a combination of uses in an urban or near-urban environment is likely to develop over the long term, as designated in the City Land Use Plan.

MANURE STORAGE AREA. An area where animal manure or runoff containing animal manure is stored or placed until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site.

NRCS. The Natural Resource Conservation Service of the USDA, a federal agency.

OWNER. Any person having possession, control or title to an animal feedlot.

PARCEL. Lot of record as defined by the St. Michael Zoning Ordinance.

PASTURES. Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative ground cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

PERSON. Includes a firm, association, organization, partnership, trust, company, corporation, as well as an individual.

PLANNING COMMISSION. The St. Michael Planning Commission, except when otherwise designated.

POTENTIAL POLLUTION HAZARD. A condition which indicates a potential for pollution of land and/or waters including, but not limited to:

1. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface water or ground water of the state in excess of applicable standards, including, but not limited to, Minnesota Rules, Chapter 7050, during a rainstorm event of less magnitude than the 25 year, 24-hour event, or will violate any city, state or county rules or ordinances.

2. An animal feedlot or manure storage area located within shore land or flood plain.

PROCESS WASTEWATERS. Waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from the production of animals, poultry, or direct products, such as milk or eggs.

SHORELAND. Any area contained within the Shoreland Overlay District of the St. Michael Zoning Ordinance.

SPECIAL PROTECTION AREA. Land within 300 feet of all:

1. Protected waters and protected wetlands as identified on the Department of Natural Resources Protected Waters and Wetlands Map for Wright County; and

2. Intermittent streams and ditches identified on United States Geological Survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.

SWCD. The Wright Soil and Water Conservation District.

USDA. United States Department of Agriculture.

WATERS OF THE STATE. All streams, lakes, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portions thereof.

WETLANDS. Defined as set forth in § 155.009 of this chapter.

(F) Administration.

- (1) Administrator. This section shall be administered by the Feedlot Administrator, with assistance from the county and the Wright Soil and Water Conservation District.

- (2) Duties and powers. The Feedlot Administrator shall have the following duties and powers:

- (a) Administer and enforce this section.

- (b) Issue construction short form permits and interim permits.

- (c) Receive and forward applications for state administered permits together with city and/or county recommendations to the Minnesota Pollution Control Agency.

- (d) Supervise the keeping of all necessary records including those related to feedlot and manure management and construction of manure storage and runoff control structures and/or practices.

(e) Consult with county, SWCD, NRCS, MPCA and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures.

(f) Maintain a record of all permits and registration material.

(g) Provide and maintain a public information bureau relative to this section.

(h) Educate the public and feedlot operators to issues of this section such as potential feedlot pollution problems.

(i) Oversee the inspection of feedlot operations to ensure compliance with this section.

(j) Consult with other city and county departments, state and federal agencies, and private consultants as needed to discharge these duties.

(k) Fulfill the requirements of a county feedlot pollution control officer as set out in Minnesota Rules Part 7020.1600, Subpart 2.

(3) Administered by the city. The Feedlot Administrator shall review applications and process as follows:

(a) All permit applications shall be processed in accordance with Minnesota Rules Part 7020.1600, Subpart 4a.

(b) Applications for state administered feedlots shall be first submitted to the Feedlot Administrator. After review, the application and comments shall be forwarded to the agency.

(c) No building permits directly related to the confined feeding, breeding, raising or holding of animals, or the handling or storage of manure shall be issued until a construction short form permit or interim permit, if required, has been issued by the agency or city.

(4) Administered by the state. The Feedlot Administrator shall forward to the Commissioner, with recommendations and comments, all animal feedlot permit applications which fall within one or more of the following categories:

(a) Animal feedlots that are required to obtain a permit under Minnesota Rules 7020.0405, Subpart 1A and B. This includes all feedlots of 1,000 animal units or more;

(b) Animal feedlots where manure is not used as a domestic fertilizer;
or

(c) Animal feedlots for which further technical review is desired by the Feedlot Administrator.

(5) Variances.

(a) A variance from this section may be granted when the city determines that granting the variance would not result in adverse environmental effects and if the criteria for granting variances under § 155.442 are met.

(b) Any person seeking a variance shall comply with those requirements as set forth in § 155.442 of this chapter.

(G) Registration and permits.

(1) Registration. Registration shall be required for all animal feedlots of ten animal units or more on a four-year cycle following the guidelines contained in Minnesota Rules Part 7020.0350, Subpart 4, including:

(a) A registration form shall be made available by the Feedlot Administrator and will include the information required under Minnesota Rules Part 7020.0350, Subpart 1.

(b) Any person owning or operating an existing animal feedlot without a current registration or feedlot permit from the city, county or the agency shall register the feedlot operation with the Feedlot Administrator.

(c) A registered animal feedlot shall secure city, county and/or state permits when required under this section.

(2) Permit required. Any person owning or operating a proposed or existing animal feedlot having ten animal units or more in a shoreland area, or 50 animal units or more anywhere else, shall make application to the Feedlot Administrator for a feedlot permit if any of the following conditions exist:

(a) A new animal feedlot is proposed.

(b) A change in operation of an existing animal feedlot is proposed; a change in operation includes:

1. A change in the construction or operation of an animal feedlot that would significantly or adversely affect the storage, handling, utilization, or disposal of animal manure;

2. An increase beyond the registered number of animal units;

3. Any construction of a building or the expansion of a dirt or concrete lot that contains livestock; or

4. An increase in the number of animal units to 10 or more which are confined at an unregistered animal feedlot;

(c) A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations; or

(d) An inspection by agency staff or the Feedlot Administrator determines that the animal feedlot creates or maintains a potential pollution hazard, and the feedlot has not signed up for the 2005 to 2010 (and as amended from time to time) Open Lot Certification under Minnesota Rules Part 7020.2003, Subparts 4 through 6.

(3) Shoreland review required. Any animal feedlot of ten animal units or less, which is located within the Shoreland Zoning District as designated under § 155.405, may be reviewed by the Feedlot Administrator to determine if a potential pollution hazard exists. The Feedlot Administrator may place conditions upon the operations of such animal feedlots to limit their impact on surface water quality.

(4) Permit application. A permit application shall include the following:

(a) Owner's and operator's name and address.

(b) Location, or proposed location, of the animal feedlot including quarter, section, range and township.

(c) Animal types and maximum number of animals of each type which will be confined at the feedlot.

(d) A scale drawing clearly indicating the dimensions of the feedlot and showing all existing homes, buildings, existing manure storage areas and/or structures, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads and wells within 1,000 feet of the proposed feedlot.

(e) Descriptions of the soil types, ground water elevations, topography, and drainage pattern of the site and surrounding area.

(f) Plans for buildings and structures as required by this section and/or other city, county and state ordinances and regulations.

(g) A manure and waste management plan including:

1. Manure handling and application techniques;
2. Acreage available for manure application;
3. Run-off potential;
4. Plans for proposed manure storage or pollution abatement structures; and
5. Plans for the proper disposal of dead livestock;

(h) Leases or agreements allowing the applicant to dispose of manure on land other than his own.

(i) Application fees, permit fees, and such other fees as established by resolution of the City Council from time to time.

(j) Persons applying for a new animal feedlot or animal feedlot expansion with a capacity of 500 animal units or more shall provide evidence of compliance with the notice requirements contained in M.S. § 116.07, Subd. 7a.

(5) Duration of construction short form permits and interim permits. All construction short form permits and interim permits expire within 24 months of the date of issuance, and may be extended only under the provisions contained in Minnesota Rules Part 7020.0535, Subpart 5.

(H) Minimum standards.

(1) Minimum area and animal density. A minimum area of four acres, or such greater area, required to meet all setbacks set forth by zoning ordinance shall be required for animal feedlot operations. On lots larger than four acres in the A-1, AP, RR, R-1, R-1a, R-2, R-3, R-4, and I-1 zoning districts, animals shall be allowed at a maximum density of one-half animal unit per acre, with the following conditions:

(a) Any new animal feedlot or animal feedlot expansion, which is required to register under this section, must be located in an A-1 or AP Zoning District and may not be located in any other Zoning District.

(b) An interim use permit, issued under § 155.119 (Interim Uses in the A-1 District) and § 155.441 (Interim Use Permits), shall be required for the following:

1. Any new animal feedlot, up to a maximum of 300 animal units, of which any part is located in an area designated as Phase One, Phase Two, or Phase Three in the city's Comprehensive Plan Phasing Plan.

2. An animal feedlot expansion, up to a maximum of 500 animal units, of which any part is located in an area designated as Phase One, Phase Two, or Phase Three in the city's Comprehensive Plan Phasing Plan.

3. Any animal feedlot expansion which causes the facility to meet or exceed 500 animal units.

These restrictions shall not apply to farm operations existing prior to the adoption of this section, but shall apply to any expansion of an existing farm operation. Parcel size in all districts is determined using all adjoining parcels under common ownership.

(c) Additional land. The animal feedlot owner shall own or have sufficient additional land under contract to meet the manure utilization requirement for spreading of manure produced in their feedlot. The Feedlot Administrator shall retain copies of all written agreements between the feedlot operators and lessors or any person who permits land application of manure. No land area may be subject to more than one such agreement.

(d) Building, holding basin, lagoon, and manure storage area setbacks. No permits shall be issued for the construction of an open-air clay, earthen, or flexible membrane lined swine waste lagoon or holding pond. This prohibition does not apply to repair or modification related to an environmental improvement of an existing lagoon or holding pond, nor does it apply to containment basins constructed to handle runoff only from existing animal feedlots, as necessary to correct a potential pollution hazard. Livestock buildings, manure holding basins, lagoons, and manure storage areas shall be constructed, operated and maintained so as to minimize the aesthetic, health, odor and pollution concerns associated with neighboring properties and land uses. The following setbacks shall apply:

1. Property lines.

a. 100 feet: All buildings housing livestock, open feedlots and solid manure storage areas, including short term stockpiling sites.

b. 200 feet: Liquid manure storage areas in compliance with Minnesota Rules, Part 7020.2100.

2. Neighboring properties.

a. Pre-ordinance feedlots. The modifications and/or expansion of existing animal feedlots and/or permanent manure storage areas that are located within 500 feet of an existing dwelling unit may be allowed, if they do not further encroach on the established setback. Existing feedlots that are within 1,000 feet of an existing dwelling may not expand to more than 499 animal units, unless a Conditional Use Permit (CUP) is obtained. When an expansion requires a CUP, the City Council shall consider the impact on pre-existing dwelling units within 1,000 feet and may require that the expansion meet the standards of a new feedlot.

b. Post-ordinance feedlots.

(i) No permits for a new dwelling unit shall be issued within 500 feet of an existing registered and/or permitted animal feedlot or permanent manure storage area of ten to 499 animal units, nor within 1,000 feet of an existing registered and/or permitted animal feedlot or permanent manure storage area of 500 or more animal units unless a variance is obtained under § 155.442 of this chapter.

(ii) No permits shall be issued for the construction and/or creation of a new animal feedlot or permanent manure storage area requiring registration and/or a permit of ten to 499 animal units that is located within 500 feet of an existing dwelling, nor for the construction and/or creation of a new animal feedlot or permanent manure storage area of 500 or more animal units within 1,000 feet of an existing dwelling unless a variance is obtained under § 155.442 of this chapter.

(iii) An animal feedlot that currently does not need to register and is located within 500 feet of a dwelling owned by a person other than an immediate family member may not expand to such a number of animal units that would require registration and/or a permit.

c. Commercial/industrial/public/institutional activity. Five hundred feet from any area zoned B-1, B-2, B-3, I-1, or P/I under the St. Michael Zoning Ordinance.

d. Owners and operators. Owners and/or operators of an existing feedlot, a proposed feedlot, or a feedlot modification or expansion, and their immediate family, shall be exempt from the setback requirements set forth in this section, with respect to any dwellings or feedlot improvements owned by them.

(2) Valid minimum standards and existing operation setbacks. The standards set above are minimum standards that may be increased by the City Council during the conditional use permit issuance process due to concerns or circumstances unique to a specific feedlot permit application. Animal feedlots in active operation prior to the adoption of this section shall comply with the standards of this section whenever possible when a change in operation, animal numbers, or new livestock facility is proposed.

(3) Wetland setback. The provisions of this section apply only to those areas which are not designated as Shoreland Overlay District under the St. Michael Zoning Ordinance.

(a) No new animal feedlots or manure storage areas shall be located within 300 feet of any protected waters or wetlands identified on the Department of Natural Resources Protected Water and Wetlands Map for the county.

(b) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 300 feet of any protected waters or wetlands identified on the Department of Natural Resources Protected Water and Wetlands Map for the county are allowed as long as the expansion does not further encroach into the wetland or pose a potential pollution hazard.

(c) No new animal feedlot or manure storage areas shall be allowed within 100 feet of a wetland of types 3, 4, or 5.

(d) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 100 feet of a wetland of types 3, 4 or 5 are allowed as long as the expansion does not further encroach into the wetland or pose a potential pollution hazard.

(4) Well setback.

(a) New animal feedlots or manure storage areas shall not be located within 100 feet of a private well.

(b) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 100 feet of a private well are allowed if the expansion does not further encroach into the well setback.

(5) Well head protection areas. Feedlot and manure management practices may be further regulated within Well Head Protection Zones established by the city or Joint Powers Water Board (JPWB).

(6) Shoreland.

(a) New animal feedlots or manure storage areas shall not be located within any area classified as the Shoreland Overlay Zoning District under § 155.405 of this chapter, nor in the bluff impact zones.

(b) Modifications or expansions to animal feedlots that existed as of October 16, 2000, and that are located within any area classified as the Shoreland Overlay District under § 155.405 of this chapter or within a bluff impact zone are allowed, if they do not further encroach into the shoreland setback, do not further encroach on bluff impact zones, if all identified pollution hazards are corrected, and if they obtain a feedlot permit.

(7) Disposal of animal carcasses. The animal feedlot owner shall provide a plan indicating the method to be used for the disposal of animal carcasses.

(a) The plan for dead animal disposal shall be consistent with the Minnesota Board of Animal Health Regulations Minnesota Rules Chapter 1719.

(b) The disposal plan shall include the name and location of any rendering service to be used and methods for protecting carcasses from scavengers.

(c) Animal carcasses, either whole, partial, or ground-up, shall not be disposed of in the manure storage structure.

(8) Coordination with the City of St. Michael Zoning Ordinance. All provisions of this section shall be coordinated with and referenced to the St. Michael Zoning Ordinance to ensure the compatibility and comprehensive coverage of the feedlot and other requirements of Zoning Ordinance.

(I) Prohibited locations of feedlots. No new animal feedlot shall be constructed within any 100-year flood plain.

(J) Land application of manure. All land application of manure or process wastewater shall comply with Minnesota Rules, Part 7020.2225.

(K) Restrictions of land application sites.

(1) Soil loss in shoreland areas. Land application of manure or process wastewater shall not be allowed on soils within shoreland that exceed allowable soil loss as set by the NRCS with assistance from the SWCD unless a conservation plan that will reduce soil loss to the allowable level is developed and is showing progress towards implementation within one year of issuance of a feedlot permit or interim permit.

(2) Right-of-way. Manure or process wastewater shall not be applied to the right-of-way of public roads.

(3) Frozen or snow-covered soils. Manure or process wastewater shall not be applied to frozen or snow-covered soils in special protection areas.

(4) Lakes and perennial streams. A minimum distance of 300 feet shall be maintained between surface applications of manure or process wastewaters and all lakes and perennial streams on unfrozen soils. In cases when manure is injected or immediately incorporated, or if there is at least a 100-foot perennial buffer, the separation distance may be reduced to 100 feet on unfrozen soils.

(5) Other special protection areas. A minimum distance of 300 feet shall be maintained between surface applications of manure or process wastewaters and all other special protection areas on unfrozen soils. In cases where manure is injected or immediately incorporated, or if there is at least a 50-foot perennial buffer, the separation distance may be reduced to 75 feet on unfrozen soils.

(6) Flood plain. Manure or process wastewater applications in the Flood Plain Overlay District as defined by § 155.365 of this chapter shall comply with the following requirements:

(a) No application to frozen or snow covered soils in the flood plain.

(b) Any application to unfrozen soils in the flood plain shall be immediately incorporated into the soil.

(7) Drainage ditches. If no potential pollution hazard exists, a minimum distance of one rod or 16.5 feet shall be maintained between surface applications of manure or process wastewater and drainage ditches or grassed waterways unless classified as a wetland or protected water.

(8) Private wells. If no potential pollution hazard exists, a minimum distance of 100 feet shall be maintained between all applications of manure or process wastewater and any private water supply well.

(9) Public wells. If no potential pollution hazard exists, a minimum distance of 300 feet shall be maintained between all application of manure or process wastewater and any public water supply well.

(10) Residences. Manure or process wastewater shall not be applied within 100 feet of a residence without injecting or immediate incorporation into the soil unless permission in the form of a written agreement is granted by the resident. When determining the distance between a residence and manure application, the distance shall be measured from the residence, not property lines, to manure application.

(11) Treatment or disposal. Any manure or process wastewater not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state laws and regulations.

(12) Irrigation of liquid manure. The application of liquid manure or process wastewater by irrigation is prohibited unless a liquid manure irrigation plan for the feedlot has been submitted to and approved by the Feedlot Administrator. The liquid manure irrigation plan must contain a description of the specific irrigation process proposed, amounts and frequency of application, analysis of the nutrient content of the manure or a proposed sampling schedule for the manure, a description of the land to be used, and a description of the methods to be used to limit aesthetic and odor problems with neighbors. The Feedlot Administrator shall provide the SWCD with copies of liquid manure irrigation plans for review and comment before approval is given.

(L) Manure storage and transportation.

(1) Compliance with state and local standards. All animal manure shall be stored and transported in conformance with Minnesota Pollution Control Agency Rules 7020 and the Feedlot Ordinance.

(2) Potential pollution hazard prohibited. No manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard unless a certificate of compliance or a permit has been issued by the MPCA.

(3) Vehicles, spreaders. All vehicles used to transport animal manure on public roads shall be leak proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak proof.

(4) Utilization as domestic fertilizer. Animal manure, where utilized as domestic fertilizer, shall not be stored for longer than one year.

(5) Run-off control structures. All manure storage areas shall have run-off control structures to contain the liquid if the storage area is located where a potential pollution hazard exists.

(6) Storage capacity. A manure utilization plan specifying storage capacity adequate for the type and quantity of manure generated by the animal feedlot shall be developed as part of the permit process.

(7) Liquid manure storage areas. All liquid manure storage areas must comply with the provisions of Minnesota Rules Part 7020.2100.

(8) Steel tanks. No steel tanks shall be used for underground manure storage.

(M) Violations and enforcement.

(1) Violations. Any person who shall violate any of the provisions of this section or who shall fail to comply with any of the provisions of this section or who shall make any false statement in any document required to be submitted under the provisions of this section, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

(2) Enforcement.

(a) Stop work orders. Whenever any construction or animal feedlot activities are being done contrary to the provisions of this chapter, the Feedlot Administrator may order the work stopped by written notice personally served upon the owner or operator of the feedlot. Such construction or animal feedlot activities shall cease and desist until subsequent authorization to proceed is received from the Feedlot Administrator, or its designee.

(b) Revocation or suspension. Whenever any animal feedlot is operated in violation of the conditions set forth on the permit, interim permit or certificate of compliance, said permit may be subject to revocation or suspension upon written notice personally served upon the owner or operator of the feedlot.

(c) Interference prohibited. No person shall hinder or otherwise interfere with the Feedlot Administrator in the performance of duties and responsibilities required pursuant to this section.

(d) Access to premises. Upon the request of the Feedlot Administrator, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises for the purposes of administering and enforcing this section. Refusal to allow reasonable access to the Feedlot Administrator shall be deemed a violation of this section, whether or not any other specific violations are cited.

(e) Injunctive relief and other remedies. In the event of a violation of this section, the Feedlot Administrator may institute appropriate actions or proceedings, including the seeking of injunctive relief, to prevent, restrain, correct or abate such violations. All costs, including reasonable attorney fees, incurred for such enforcement action may be recovered by the city in a civil action in any court of competent jurisdiction. These remedies may be imposed upon the owner, operator, applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

(3) Reporting of spills and accidental discharges. Owners and operators of animal feedlots shall immediately report to the Feedlot Administrator any accidental discharge of animal manure from a lagoon or holding pond.

(N) Abandonment/accidental discharge. Owners and operators of animal feedlots shall have joint and several liability for clean-up, closure or remediation of abandoned animal feedlot sites as well as for the clean up or remediation of the effects of spills and accidental discharges. At the discretion of the city, such costs may be certified to the County Auditor as a special tax against the real property involved.

(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 155.072 MODEL HOMES, TEMPORARY REAL ESTATE AND CONSTRUCTION OFFICES.

This section allows for the provision of model homes and temporary real estate and construction offices, in new subdivisions or commercial properties without adversely affecting the character of surrounding residential neighborhoods and properties or creating a general nuisance. As these uses represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to ensure reasonable compatibility with their surrounding environment. All model homes, temporary real estate and construction offices must comply with the following special requirements:

(A) All model homes and temporary real estate and construction offices shall meet the required building setbacks when located within or adjacent to a residential district.

(B) Lighting and signs must comply with the regulations contained elsewhere in the city code.

(C) Temporary parking facilities equal to two spaces per model home dwelling unit or temporary real estate office shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator.

(D) The model home or temporary real estate and construction offices are permitted for a period of three years or until such time as 85% of the lots are occupied, whichever occurs first.

(E) The applicant for a model home may be required to submit a cash bond to guarantee the conversion of the model home to a single-family home in a timely manner if alterations to the site have occurred such as the provision of paved parking, removal of lighting, and similar uses. Such conversion includes, but is not limited to, the provision of landscaping, turf restoration and the removal of parking lots, signage and lighting.

(F) At no time may a model home or temporary real estate and construction office be used as a residence.

(G) No residential Certificate of Occupancy shall be issued for a model home until such time as the structure has been fully converted to a residence. Such conversion shall include but not be limited to parking lot restoration and the removal of signage and lighting.

(Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.073 SOLAR ENERGY SYSTEMS.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SOLAR ENERGY SYSTEM. A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

SOLAR ENERGY SYSTEM, BUILDING INTEGRATED. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building, examples of which are roofing materials, windows, skylights, and awnings.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED. A freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.

(B) Permitted accessory use. A solar energy system shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to the requirements set forth below.

(1) Height. A solar energy system must comply with the following height requirements:

(a) A building- or roof-mounted solar energy system shall not exceed the maximum allowed height for the zoning district in which the system is located.

(b) A ground- or pole-mounted solar energy system shall not exceed ten feet in height when oriented at maximum tilt.

(2) Setbacks and yard requirements.

(a) Roof-mounted solar energy systems.

1. Shall comply with all building setback requirements in the applicable zoning district.

2. The collector surface and mounting devices for each roof-mounted solar energy system shall be set back from the edge of the roof of the structure upon which the system is located a minimum distance as required by the Building Official.

3. Exterior piping for a solar hot water system may extend beyond the perimeter of the building on a side or rear yard exposure.

(b) Ground- or pole-mounted solar energy systems.

1. Shall comply with all accessory structure setbacks in the applicable zoning district.

2. Shall not extend into the setbacks when oriented at minimum design tilt.

3. In addition to the accessory structure setbacks, residential systems located within the residential zoning districts (R-1, R-1a, R-2, R-3, R-4 and PUD Residential) systems shall be located in the rear yard.

4. Residential systems located within the agricultural zoning districts (A-1, AP) shall be setback not less than 75 feet, or half the distance from the principal structure to a public right-of-way or road easement, whichever is greater, and meet the required side and rear yard setbacks for accessory structures.

5. Shall not be included in the calculation of total square footage of accessory space allowed, as found in § 155.028(B)(1).

(c) Solar energy systems located in the shoreland district shall meet the minimum structure setbacks as required in § 155.409. Solar panels no larger than four square feet on boat lifts shall be permitted.

(3) Aesthetics. A roof-mounted solar energy system shall incorporate the following design requirements:

(a) Equipment. Solar energy equipment (i.e. boxes, wiring, and conduit) shall be installed inside walls and attic spaces where feasible to reduce their visual impact. If solar equipment is visible from the public right-of-way, it shall match the color of the materials of the structure to which it is affixed.

(b) Pitched roofs. Panels must be mounted flush with the roof pitch and be no higher than six inches above the roof plane they are attached to.

(c) Flat roofs. Solar panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.

(4) Coverage. The surface area of a pole or ground mount system shall not exceed the requirements set forth in the following table:

Lot Size (acre)

Less than 1

1.00-1.99

2.0-2.99

3.0-3.99

4.0-4.99

5.0 or greater

(5) Plan approval required.

(a) No solar energy system may be installed without prior written approval by the Zoning Administrator.

(b) Plan application. A plan application for a solar energy system shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building for a roof mounted system or the location of the system upon the property for a ground-mount system, including the property lines.

1. Pitched roof-mounted solar energy system. The drawings for a roof-mounted system upon a pitched roof must show the elevation of the

highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

2. Flat roof-mounted solar energy system. The drawings for a roof-mounted system upon a flat roof must show the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(6) Compliance with other codes. All solar energy systems shall comply with requirements imposed by the City Building Official and with requirements set forth in the Minnesota State Electrical Code.

(7) Utility notification. No solar energy system shall be installed until written evidence has been given to the Zoning Administrator establishing that the owner of the property upon which the system is located has notified the utility company of the intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(8) Abandonment. A ground- or pole-mounted solar energy system shall be considered abandoned after one year without energy production. A solar energy system and its related accessory facilities shall be removed within 60 days after written notice by the city that the solar energy system has been deemed abandoned.

(Ord. 1401, passed 1-28-14; Am. Ord. 1507, passed 10-13-15; Am. Ord. 1604, passed 5-10-16; Am. Ord. 1606, passed 10-11-16; Am. Ord. 1803, passed 6-12-18; Am. Ord. 2004, passed 11-10-20)

§ 155.074 WIND ENERGY CONVERSION SYSTEMS.

Purpose. Health, safety, welfare, compatibility, functionality of turbines in urban areas.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLADE ARC. The arc created by the edge of the rotor blade that is farthest from the center.

FALL ZONE. The area defined as the furthest distance from the WECS tower base in which a guyed tower will collapse in the event of a structural failure.

ROTOR DIAMETER. The diameter of the circle described by the moving rotor blades.

TOTAL HEIGHT. The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

TOWER. A tower includes a vertical structure that supports the electrical generator or rotor blades of the WECS.

TOWER HEIGHT. The total height of the WECS exclusive of the rotor blades.

TURBINE. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility comprised of one wind turbine and accessory facilities that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

(B) Zoning district regulations. A WECS is permitted only as an interim use in Agricultural Zoning Districts and only if the WECS complies with the requirements set forth in § 155.441 and those requirements set forth below.

(1) In reviewing an application for an interim use permit for a WECS, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with the use, to protect the value of property within the zoning district and to achieve the goals and objectives of the Comprehensive Plan. Such conditions may include increasing setbacks, relocating the WECS, or landscaped screening in order to protect views, reduce noise or other negative characteristics.

(2) A roof or building-mounted WECS is not permitted.

(3) Only a WECS utilizing horizontal axis wind turbines (OHWT) is permitted. The OHWT must have the main rotor shaft and electrical generator at the top of the tower and must be pointed into the wind.

(4) Number. Only one WECS shall be permitted per lot of record.

(5) Height. A WECS shall have a total height, including tower and rotor at its highest point, of no more than 150 feet.

(6) Yard requirements. In no case shall a WECS be located closer to the public right-of-way than any principal structure existing on the property at the time of construction of the WECS.

(7) Setbacks. A WECS shall be setback from all property lines, overhead electrical power lines, or planned right-of-way identified in the city's Transportation Plan a minimum of 1.1 times the total height of the

WECS. A WECS located in the Shoreland Overlay District shall be setback a minimum of 500 feet from the ordinary high water level.

(8) Safety design standards.

(a) Engineering certification. An applicant seeking to install a WECS must provide engineering certification that the turbine, foundation, and tower design of the WECS is within accepted professional standards given site soil and climate conditions. Certification may be demonstrated by the WECS' manufacturer's engineer or another qualified engineer acceptable to the City Building Official.

(b) Rotor safety. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS' operation in winds 40 mph or greater.

(9) Equipment design and performance standards.

(a) Each WECS must be mounted on a tubular, monopole type tower.

(b) Color and finish. All wind turbines and towers that are part of a WECS shall be white or grey, or a similar color approved by the Zoning Administrator. Finishes shall be matt or non-reflective.

(c) Rotor clearance. Blade arcs created by the WECS shall have a minimum of 30 feet of clearance over any structure or tree located within a 200 foot radius of the WECS.

(d) Rotor diameter. The rotor diameter of a WECS shall not exceed 50 feet.

(e) Technology standards. A WECS must meet the minimum standards of a WECS certification program recognized by the American Wind Energy Association, such as AWEA's Small Wind Turbine Performance and Safety Standard, the Emerging Technologies program of the California Energy Commission, or other third party standards acceptable to the city.

(f) Established wind resource. A WECS shall only be installed where there is an established wind resource. An established wind resource may be documented in the following ways:

1. The proposed site for the WECS has a minimum 11 MPH average wind speed at the designed hub height, as documented on the Minnesota Department of Commerce statewide wind speed maps.

2. The proposed WECS turbine has a minimum hub height of 80 feet and the blade arc is 30 feet higher, on a vertical measurement, than all structures and trees within 300 feet of the tower.

3. Providing to the city an analysis conducted by a certified wind energy installer or site assessor (North American Board of Certified Energy Professional, NABCEP, or equivalent) that includes estimates of wind speed at the WECS turbine height based on measured data, estimated annual production, and compliance with the WECS manufacturer's design wind speed.

(10) Lighting. A WECS shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other federal or state law or regulation that preempts local regulations.

(C) Plans required. Plan applications shall be accompanied by to-scale horizontal and vertical (elevation) drawings of the entire WECS and a scaled site plan. At the city's sole discretion, a current survey may be required. The site plan must show the location of the WECS tower and accessory equipment and any structures or improvements (on or offsite) located within 500 feet of the proposed WECS tower location.

(D) Noise. Each WECS shall comply with Minnesota Rules 7030, and shall not exceed 50 dB(A) when measured from the outside of the nearest residence, business, school or other inhabited structure. The audible noise from a WECS may periodically exceed allowable noise levels when wind exceeds 30 mph.

(E) Compliance with other codes. Each WECS must comply with the Minnesota State Electrical Code and must be approved by the Federal Aviation Administration and the City Building Official.

(F) Utility notification. A WECS may not be installed until the Zoning Administrator has determined that the owner of the land upon which the WECS is to be located has submitted notification to the utility company of the owner's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(G) Abandonment. A WECS shall be considered abandoned after one year without energy production. A WECS and its accessory facilities shall be removed to ground level within 60 days after the city has notified the owner of the land upon which the WECS is located that the city has declared the WECS abandoned.

(Ord. 1401, passed 1-28-14)

LAND ALTERATION

§ 155.085 LANDFILLING.

(A) Permit required. Except for a governmental jurisdiction, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development, any person who proposes to add landfill in excess of 50 cubic yards to any property within the city limits shall apply to the city for a landfill permit. Notwithstanding the requirements of this section, no permit will be required for depositing landfill on a lot for which a building permit has been issued for construction thereon.

(B) Application and required information; fee.

(1) Any person desiring a permit hereunder shall present an application on such forms as shall be provided by the Zoning Administrator requiring the following information:

- (a) The name and address of the applicant;
- (b) The name and address of the owner of the land;
- (c) The address and legal description of the land involved;
- (d) The purpose of the landfill;
- (e) A description of the source, type, and amount of fill material to be placed upon the premises;
- (f) An estimate of the time required to complete the landfill;
- (g) A site plan showing present topography and also including boundary lines for all properties, watercourses, wetlands, and other significant features within 150 feet of the subject site;
- (h) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the landfill is being conducted. Topsoil shall be of a quality capable of establishing normal vegetative growth;
- (i) A written right-of-entry given to the city and/or its officers to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.

(2) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application is submitted based upon a schedule established by City Council resolution.

(C) Technical reports. The Zoning Administrator shall process all landfill permit applications. Such applications, when determined to be necessary by the Zoning Administrator, and all those for more than 50 cubic yards shall

be forwarded to the City Engineer and Building Official. Where watersheds, floodplains, and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the City Council.

(D) Issuance of permit. Upon receiving information and reports from the city staff and other applicable agencies, as well as recommendations by the Planning Commission, the City Council shall make its determination as to whether, when, and under what conditions a permit for a landfill greater than 50 cubic yards is to be issued to the applicant by the Zoning Administrator.

(E) Conditions of operation.

(1) Under no circumstances shall any such landfill operation be conducted or permitted if the contents of the landfill or any part thereof shall consist of garbage, animal, vegetable, or plant, refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material, or any other material deemed to be unsuitable by the city.

(2) Unless expressly extended by permit, the hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Saturday.

(F) Security. The City Council may require either the applicant or the owner or user of the property on which the landfill is occurring to post a security in such form and sum as determined by the City Council with the recommendations of the Zoning Administrator, City Attorney, and/or City Engineer. The security will provide to the city sufficient security conditioned to pay to the city the extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all requirements of this section and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

(G) Failure to comply. The city may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, proceed to cause the requirement to be complied with, and the cost of such work shall be taxed against the property whereon the landfill is located, or the city may at its option proceed to collect such costs by an action against the person to whom such permit has been issued and their superiors if a bond exists. In the event that landfilling operations requiring a permit are commenced prior to city review and approval, the city may

require work stopped and all necessary applications filed and processed. Application fees shall be double the normal charge.

(H) Completion of alteration.

(1) All landfill operations shall be completed within 90 days of the issuance of the permit. Upon completion, the permit holder shall notify the city in writing of the date of completion. If additional time beyond the 90 days is needed for completion, the permit holder may apply to the city, and upon a satisfactory showing of need, the city may grant an extension of time. If such extension is granted, it shall be for a definite period and the city shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the landfill operation within 90 days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as a shortage of fill material, a teamsters' strike, unusually inclement weather, illness, or other such valid and reasonable excuse for noncompletion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this section relating to grading, leveling, and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Engineer after inspecting the premises.

(2) At the completion of landfill operations, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City Engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the City Engineer may determine with reference to storm water drainage runoff and storm water passage or flowage so that the landfill cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The City Engineer shall inspect the project following completion to determine if the applicant has complied with the conditions required thereof. Failure of such compliance shall result in the withholding of any building permits for the site and notice of such withholding shall be filed in the office of the County Recorder for the purposes of putting subsequent purchasers on notice.

(I) Landfills in process. All landfill operations for which a permit has previously been issued shall terminate operations on the date specified by the permit.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.086 GRADING AND EXCAVATION.

(A) Permit required. Except for a governmental jurisdiction and in cases where a grading and drainage plan for a private development has been

approved as part of a subdivision or other development, the extraction of sand, gravel, black dirt, or other natural material from the land or the grading of land by a person in the amount of 50 cubic yards or more shall be termed "land excavation/grading" and shall require a permit.

Excavation/grading activities which qualify as mining operations shall be subject to other applicable sections of the city code.

(B) Applicability; exceptions. It is intended hereunder to cover the removal of natural materials from lands including such activity when carried on as a business; but shall not apply to basement excavation or other excavation/grading which is already covered by the Building Code or other such regulations of the city.

(C) Application for permit; fee

(1) Any person desiring a permit hereunder shall present an application of such form as shall be provided by the city requiring the following information:

- (a) The name and address of the applicant.
- (b) The name and address of the owner of the land.
- (c) The address and legal description of the land involved.
- (d) The purpose of the excavation or grading.
- (e) A description of the type and amount of material to be excavated or graded from the premises.
- (f) The highway, street or streets, or other public ways in the city upon and along which any material is to be hauled or carried.
- (g) An estimate of the time required to complete the excavation or grading.
- (h) A site plan showing present topography and also including boundary lines for all properties, watercourses, wetlands, and other significant features within 350 feet.
- (i) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Topsoil shall be of a quality capable of establishing normal vegetative growth.
- (j) A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety, and welfare or is appropriately fenced to provide adequate protection.

(k) A statement that the applicant will comply with all conditions prescribed by the city or its officers or agents.

(l) A written right-of-entry given to the city and/or its officers to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.

(2) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application shall be paid to the city at the time the application is submitted based upon a schedule established by City Council resolution.

(D) Technical reports. The Zoning Administrator shall immediately upon receipt of such applications forward a copy thereof to the City Engineer and Building Official. Where watersheds, floodplains, and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the City Council.

(E) Issuance of permit. Upon receiving information and reports from the City Staff and other applicable agencies, the City Council shall make its determination as to whether, when, and under what conditions such permit for an excavation is to be issued to the applicant by the city.

(F) Conditions of permit.

(1) Requirements of Council. The City Council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the excavation/grading is located to:

(a) Properly fence the excavation;

(b) Slope the banks and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks;

(c) Properly drain, fill in, or level the excavation after it has been created, so as to make the same safe and healthful as the City Council shall determine;

(d) Keep the excavation/grading within the limits for which the particular permit is granted;

(e) Remove excavated/graded material from the excavation, away from the premises upon and along such highways, streets, or other public ways as the city shall order and direct;

(f) Retain and store topsoil from the site in question and utilize such materials in the restoration of the site;

(g) Use replacement material consisting of clean fill. The introduction of foreign substances or material that does not constitute clean fill is prohibited.

(2) Hours of operation. Unless expressly extended by permit, the hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Saturday.

(G) Security. The city may require either the applicant or the owner or user of the property on which the excavation/grading is occurring to post a security in such form and sum as determined by the City Council with the recommendation of the Zoning Administrator, City Attorney, and City Engineer. The security will provide the city with sufficient security conditioned to pay to the city the extraordinary cost and expense of repairing, from time to time, and highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting excavated material, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all requirements of this chapter and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

(H) Failure to comply. The city may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause the requirement to be complied with, and the cost of such work shall be taxed against the property whereon the landfill is located, or the city may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued and their superiors if a security exists.

(I) Completion of alteration.

(1) All excavation/grading operations shall be completed within 90 days of the issuance of the permit. Upon completion the permit holder shall notify the city in writing of the date of completion. If additional time beyond the 90 days is needed for completion, the permit holder may apply to the city and upon a satisfactory showing of need, the city may grant an extension of time. If such extension is granted, it shall be for a definite period and the city shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the excavation/grading operation within 90 days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as a teamsters' strike, unusually inclement weather, illness, or other such valid and reasonable excuse for noncompletion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this chapter relating to grading, leveling, and seeding or

sodding. What constitutes such “reasonable time” shall be determined by the City Engineer after inspecting the premises.

(2) At the completion of an excavation/grading, the premises shall be graded with erosion control, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City Engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the City Engineer may determine with reference to storm water drainage runoff and storm water passage or flowage so that the excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The City Engineer shall inspect the project following completion to determine if the applicant has complied with the conditions imposed as part of the permit.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.087 GRADING, MINING, EXCAVATION, AND EARTHWORK CONSTRUCTION.

(A) Purpose. The purpose of this section is to safeguard life, limb, property, and the public welfare by controlling grading, mining, and filling operations so as to minimize conflicts with adjacent land uses, to preserve good soils and to regulate the type of materials used in filling operations, and to ensure that disturbed areas are restored upon completion of the operation.

(B) Scope. This section sets forth rules and regulations to control grading, mining, excavation, and earthwork construction including fills and embankments, establish the administrative procedure for issuance of permits, and provide for approval of plans and inspection of grading construction.

(C) Exceptions. This section shall not apply to:

(1) The excavation, removal, or storage of rock, sand, dirt, gravel, clay, black dirt, peat, or other like material for the purpose of compliance with a grading plan approved as part of a subdivision plat, site plan, or planned unit development, if the plat, site plan, or planned unit development does not require the exporting or importing of earth material and a letter of credit or other security has been posted before the excavation takes place;

(2) The excavation for the purpose of the yard, foundation, or basement of a building in the process of being erected, built, or placed thereon contemporaneously with, or immediately following, such excavation, removal, or storage and a building permit has been issued;

(3) The excavation, removal, or storage of rock, sand, dirt, gravel, clay, black dirt, peat, or other like material by a public agency incidental to the construction or maintenance of streets or utilities;

(4) Grading of individual residential lots by less than 250 cubic yards of earth material or less than 100 square feet of surface area in a calendar year.

(D) Permit required. Except as otherwise provided in this section, it shall be unlawful for anyone to mine or excavate as defined herein without having first obtained a written permit from the city authorizing the same in accordance with this section. Mining and excavation operations that predate this section that do not have a permit shall obtain a permit within 180 days after the adoption of this section. Current permit holders shall come into compliance with the terms of this section no later than the time their annual permit is renewed or within a maximum of 180 days.

(E) Applications for permits; procedures; contents of applications.

(1) An application for a mining or excavation permit shall be administered in accordance with requirements specified in this chapter, § 155.119 (Interim Uses in the A-1 District) and § 155.441 (Interim Use Permits).

(2) An application for a mining or excavation permit shall contain:

(a) The names and addresses of the applicant, operator, and owner of the site.

(b) The purpose for which the permit is sought.

(c) The exact legal description and acreage of the property to be graded, mined, or filled.

(d) The following maps of the entire site including all areas within 350 feet of the site. All maps shall be drawn at a scale of one inch to 100 feet unless otherwise stated below:

1. Map 1 - Existing Site Conditions, to include:

- a. Contour map (two foot intervals);
- b. Existing vegetation;
- c. Existing drainage and permanent water areas;
- d. Existing structures;
- e. Existing wells;
- f. Water table elevations.

2. Map 2 - Proposed Operations, to include:

- a. Location of sites to be graded, mined, or filled showing elevations of each stage of proposed operations;
- b. Location of storage of mined materials showing maximum height of storage deposits;
- c. Location of vehicle parking, and access roads;
- d. Location and description of erosion and sediment control structures;
- e. Location of any proposed dewatering operations.

3. Map 3 - End Use Plan, to include:

- a. Final grade of proposed site showing elevations and contour lines at two foot intervals;
- b. Location and species of vegetation to be planted;
- c. Phasing plan;
- d. Storm water drainage plan.

4. Map 4 - Hauling Roads, to include:

- a. Location of designated hauling roads from the site to a state or federal highway;

(e) A soil erosion and sediment control plan.

(f) A plan for dust and noise control.

(g) A full and adequate description of all phases of the proposed operation including an estimate of duration of the grading, mining, or filling operation, the location, and the approximate acreage of each stage and a schedule for restoration.

(h) A rehabilitation or restoration plan providing for the orderly and continuing rehabilitation of all excavated land. Such plan shall illustrate, using appropriate photographs, maps, and surveys drawn to a scale of one inch equals 100 feet and with a two-foot contour interval satisfactory to the Engineer, the following:

1. The final or planned contours of the land when the mineral removal operations are completed;

2. Those areas of the site that will be used for storage of topsoil and overburden;

3. The elevation and location of all water bodies.

(i) The location of any existing wells and the size and depth thereof located on the site.

(j) The location and description of any proposed dewatering operations.

(k) An analysis of the earth material to be used in the filling, which analysis shall include the following; the analysis as required herein shall be certified by a qualified testing laboratory:

1. pH content;

2. Organic material content;

3. Determination of the presence or lack of hazardous substances as defined by the Minnesota Pollution Control Agency.

(l) Any other information requested by the City Staff, Planning Commission, or City Council.

(F) Insurance. The applicant shall file with the city a liability insurance policy or certificate of such insurance acceptable to the city and issued by an insurance company authorized to do business in the state.

(1) The insurance policy shall insure the operator performing acts described herein for the sum of at least \$500,000 for injury to one person and \$1,000,000 for one accident and at least \$500,000 property damage.

(2) The insurance policy shall be for the full period of the permit and shall provide for the giving of ten-days prior notice to the City Administrator by registered mail of termination, cancellation, or amendment of the policy.

(3) In the event said policy is terminated for any reason, the permit shall be automatically suspended upon the day the policy terminates, unless a new policy complying with this section is obtained and filed with the City Administrator prior to the termination of the policy in force.

(G) Review and approval of overall plan; function of renewable annual permits.

(1) The City Council shall review the permit application and shall approve the permit if it is in compliance with this section, this chapter, and other applicable laws, ordinances, code provisions, and regulations. The City Council may attach conditions to the permit approval to promote safety and prevent nuisance conditions. The rehabilitation plan shall only be approved if it is consistent with the uses allowed in the City's Comprehensive Plan and this chapter.

(2) Implementation of the overall plan shall be by means of renewable annual permit. The purpose of the renewable permit is to assure compliance

with the longer-range overall plan and to retain the ability to modify existing or to attach new conditions in accord with changing characteristics of the site or its surroundings. The City Council, after consultation with appropriate city staff, may issue renewal licenses upon satisfactory proof of compliance with this chapter.

(H) Termination of permit.

(1) The material extraction permit may be terminated for violation of this section or any conditions of the permit. No permit may be terminated until the City Council has held a public hearing to determine whether the permit shall be terminated, at which time the operator shall be afforded an opportunity to contest the termination. The City Council may establish certain conditions which, if not complied with, will result in immediate suspension of operations until the public hearing to consider termination of the permit can be held.

(2) It shall be unlawful to conduct mineral extraction or excavation after a permit has been terminated.

(I) Annual permits; renewal; conditions.

(1) Request for renewal of an annual permit shall be made 60 days prior to the expiration date. If application or renewal is not made within the required time, all operations shall be terminated and reinstatement of the permit may be granted only upon compliance with the procedures set forth in this section for an original application.

(2) A permit may be approved or renewed subject to compliance with conditions in addition to those set forth in this section when such conditions are reasonable and necessary to ensure compliance with the requirements and purpose of this section. When such conditions are established, they shall be set forth specifically in the permit. Conditions may, among other matters, limit the size, kind, or character of the proposed operation, require the construction of structures, require the staging of extraction over a time period, require the alteration of the site design to ensure compliance with the standards, require the provision of a performance bond by the operator to ensure compliance with these regulations in this chapter, or other similar requirements.

(J) Fees. A schedule of fees for the examination and approval of applications for permits under this section and the inspection of operations for compliance with the conditions of this section and the permit shall be determined by resolution of the City Council, which may, from time to time, change the schedule. Prior to the approval and issuance or renewal of any permit under this section, the fees shall be paid to the city and deposited to the credit of the General Fund.

(K) Performance bond or irrevocable letter of credit. Prior to commencing any grading, mining, or filling operation, a performance bond, cash escrow, or irrevocable letter of credit, in such form and amounts as the city may require, shall be deposited with the city. The amount of this deposit shall vary according to the scope and duration of the project and shall be established by the City Council. This deposit may be used by the City Council to: pay for the cost and expense of repairing any public rights-of-way due to the grading, mining, or filling operation; pay for the costs associated in administering the requirements of this section; and pay for any restoration of the site not properly restored upon completion. This security shall be used by the city only in the event that the permit holder fails to pay bills submitted for costs incurred by the city.

(L) Issuance of permit imposes no liability on city and relieves the permittee of no responsibilities, etc.

(1) Neither the issuance of a permit under this section nor compliance with the conditions thereof or with the provisions of this section shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit under this section serve to impose any liability on the city or its officers or employees for any injury or damage to persons or property. A permit issued pursuant to this section does not relieve the permittee of the responsibility of securing and complying with any other permit which may be required by any other law, ordinance, code provision, or regulation.

(2) As a condition of this permit, the permittee agrees to allow the City Council or any of its staff members to trespass for the purpose of inspecting the mining operation at all times. In addition, the permittee grants the city or its representative the right to trespass on the site to complete the restoration in the event that the permittee fails to do so.

(M) Performance standards.

(1) General provisions.

(a) Vegetation removal. Weeds and other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance of the site and to minimize seeding on adjacent property.

(b) Equipment maintenance and use; rubbish removal. All equipment used for grading, mining, or filling operations shall be maintained and operated in such a manner as to minimize, as far as practicable, noises, dust, and vibrations adversely affecting surrounding properties. In addition, all machinery shall be kept in good repair and painted regularly. Abandoned machinery and rubbish shall be removed from the site regularly.

(c) Noise, safety, and dust concerns. All hauling operations shall be complete so as to minimize noise, safety, and dust concerns to adjacent residential properties.

(d) Safeguarding from refuse deposit. All grading, mining, and filling sites shall be properly safeguarded to prevent the general public from depositing garbage or other refuse in the site.

(e) Structure, equipment, and trailer removal. All structures, trailers, or equipment that has not been actively used in the mining operation for eight months shall be removed from the site.

(f) Structure and trailer maintenance. All structures or trailers used for the mining and grading operation shall be maintained in accordance with acceptable industry standards.

(g) Vegetation preservation. Existing tree and ground cover shall be preserved to the extent feasible, and maintained and supplemented by selective cutting, transplanting, and replanting of trees, shrubs, and other ground cover along all setback areas.

(2) Water resources.

(a) The grading, mining, or filling operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the site.

(b) No grading, mining, or filling operations shall occur below an elevation of six feet above the elevation of the water table on the site.

(3) Safety fencing.

(a) Safety fencing may be required around all or portions of the site at the discretion of the City Council.

(b) Fencing may be ordered by the City Council or City Engineer any time the permit is in force and shall be installed with 24 hours of written notice.

(4) Access roads. The location of the intersection of mining, grading, or filling access roads with any public roads shall be selected such that traffic on the access roads or streets shall be maintained in order to minimize dust considerations.

(5) Haul roads. Haul roads for new mining operations which commence operation after the adoption of this section shall be nine-ton roads only, as defined by city standards. Haul roads for existing mining and excavation in existence at the time this section is adopted shall be officially designated and approved by the city. For an existing mining operation that is not a

nine-ton road, the operator shall comply with seasonal weight restrictions when using the designated haul road.

(6) Fill materials. An analysis of all fill materials must be provided to and approved by the City Engineer prior to commencing any filling activities. No filling materials shall be permitted which, in the opinion of the City Engineer, would be undevelopable or create substandard soils.

(7) Screening barrier. To minimize problems of dust and noise and to shield site operations from public view, a screening barrier may be required at the city's discretion between the site and adjacent properties. A screening barrier may also be required between the site and any public roads located within 500 feet of any grading, mining, or filling operations. The screening barrier shall be planted with a species of fast-growing trees, and where practical, stockpiles of overburden materials shall be used to screen the operation site.

(8) Slopes. The maximum permitted slope for any grading, mining, or filling operation other than the working face shall be sloped on all sides at a maximum ratio of two foot horizontal to one foot vertical, unless a steeper slope shall be approved by the City Engineer. In no case shall the slope of the working face of the operation be left unattended with a slope greater than two feet horizontal to one foot vertical. Where excavations are adjacent to a public roadway or other right-of-way, the excavation shall have a maximum four to one slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one.

(9) Setback.

(a) A grading, mining, or filling operation shall not be conducted closer than 30 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce or raise the elevation thereof in conformity to the existing or platted streets, road, or highway.

(b) Processing of minerals shall not be conducted closer than 100 feet to the property line nor closer than 500 feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of the structures. Mining operations shall not be conducted closer than 30 feet to the boundary of any zone where such operations are not permitted, nor shall production or processing be conducted closer than 30 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such adjoining property is first secured in writing.

(c) No excavation or digging shall be made beyond the limits for which the particular permit is granted and in no case shall any excavation or digging be made within 30 feet of any adjoining road right-of-way or

structure as may be in the area without obtaining specific approval by the City Council.

(10) Stockpiling. Where practical, stockpiles of overburden shall be used to screen the extraction. Stockpiles of either overburden or mined material shall be limited to 22 feet in height. Removal or sale of the overburden shall not be allowed until the entire site has been restored. Also, the stockpiling of foreign material will not be allowed under the mining permit. Only mined or extracted material from the site may be stockpiled.

(11) Earth material. No earth material shall be imported to or exported from the site until the haul road has been officially designated as a haul road by the city and all materials hauled from the source shall be hauled over that road. The haul road designation process shall be pursuant to Section 2051.3 of the Minnesota Department of Transportation's Standard Specifications for Construction, 1988 Edition.

(12) Nuisances. All reasonable means shall be employed by the applicant to reduce dust, noise, and nuisances.

(13) Noise. The maximum noise level at the perimeter of the site shall be within the limits set by the Minnesota Pollution Control Agency and the Environmental Protection Agency of the United States.

(14) Hours. All mining operations shall be conducted between 7:00 a.m. and 7:00 p.m. on weekdays only, unless otherwise specifically approved by the City Engineer or his or her agent.

(15) Dust. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the Minnesota Pollution Control Agency. No operations shall be allowed when wind gusts exceed 30 mph.

(16) Water pollution. Operators shall comply with all applicable Minnesota Pollution Control Agency regulations and federal and Environmental Protection Agency regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake or natural drainage system, except that lakes or ponds wholly contained within the extraction site may be so utilized.

(17) Topsoil preservation. All topsoil shall be retained at the site until complete rehabilitation of the site has taken place according to the rehabilitation plan.

(N) Dangerous operations. The operators shall change, alter, or modify immediately any excavation or operation therein deemed by the City

Council to be unsanitary or dangerous or polluted or contrary to the general health and welfare of the city.

(O) Maintenance of haul roads and traffic law compliance.

(1) While hauling operations are in progress, the operator shall maintain the haul road(s) in a condition satisfactory to the City Engineer. This work shall include application of water, bituminous material, or calcium chloride to the road surface as may be necessary to alleviate dust nuisance and eliminate traffic hazards. This work shall also include the removal of spillage of any material on the haul road(s).

(2) When hauling operations over any road are completed, the operator shall (at the operator's option):

(a) Restore that haul road to a condition at least equal to that which existed at the time the hauling operations were started; or

(b) Compensate the local road authority in an amount satisfactory to that road authority and concurred in by the City Engineer for the restoration of that haul road by the local authority.

(3) The City Engineer's determination as to the kind and amount of maintenance and restoration work required to restore the haul road to a condition equal to that which existed at the time the hauling operations were started shall be final, binding, and conclusive.

(4) When hauling over any designated haul road has been completed and the operator has restored that road or has compensated for that restoration as required, the City Engineer will accept such restoration or concur in such financial settlement for the restoration of the haul road (as the case may be) in writing, and such acceptance will relieve the operator of any kind of additional obligation in connection with the restoration of that road.

(5) If the operator fails or refuses to perform haul road restoration or to make satisfactory financial settlement for such restoration as required within the period specified in a written notice by the City Engineer, the city will cause the restoration work to be done and require reimbursement therefor from the operator's surety.

(P) Site restoration. All grading, mining, and filling sites shall be restored immediately after operations cease. Restoration shall be completed within 60 days of the cessation of operations unless operations cease during the fall. In no case shall restoration be left uncompleted for over eight months. The following standards shall apply to restoration:

(1) The peaks and depressions of the site shall be graded and backfilled to a surface which will result in a gently rolling topography in

substantial conformity to the land area immediately surrounding the site and which will minimize erosion due to rainfall. No finished slope shall exceed 12% in grade.

(2) Restoration shall begin after the grading, mining, and/or filling of 25% of the total area to be mined or five acres, whichever is less. Once these areas have been graded, mined, or filled, they shall be sloped and seeded as per the restoration plan.

(3) Restored areas shall be surfaced with a soil of a quality at least equal to the topsoil of land areas immediately surrounding the site, and to a depth of at least six inches. The topsoil shall be seeded, sodded, or planted with grasses. Trees and shrubs may also be planted but not as a substitute for grasses. Such planting shall adequately retard soil erosion.

(4) The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site and shall be consistent with the end use plan.

(5) Within 30 days after the deposit of approved fill materials, the filled areas shall be covered with a minimum of six inches clean fill, and the depth of the fill shall be controlled to blend with the surrounding ground conditions.

(Ord. 110, passed 11-15-97; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

DISTRICTS GENERALLY

§ 155.100 ESTABLISHMENT OF ZONING DISTRICTS.

The following classifications are hereby established within the city:

(A) Agricultural Districts.

(1) A-1, General Agriculture District.

(2) AP, Agricultural Preservation District.

(B) Residential Districts.

(1) R-1, Single-Family Residential District.

(2) R-1a, Single-Family Residential District.

(3) R-2, Single-Family Residential District.

(4) R-3, Multiple-Family Residential District.

(5) R-4, Multiple-Family Residential District.

(6) RR, Rural Residential District.

(C) Business Districts.

(1) B-1, General Business District.

(2) B-2, Central Business District.

(3) B-3, Business/Office Park District.

(D) (1) Industrial Districts.

(2) I-1, Industrial District.

(E) Special Districts.

(1) P/I, Public/Institutional District.

(2) W, Wetland District.

(3) FP, Floodplain Overlay District.

(4) S, Shoreland Overlay District.

(Ord. 110, passed 11-15-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20)

Cross-reference:

Fire zones, see § 32.35 et seq.

§ 155.101 MAP.

The location and boundaries of the districts established by this chapter are hereby set forth on the Zoning Map entitled "City of St. Michael Official Zoning Map." The Zoning Map shall remain on file with the Zoning Administrator, and hereinafter be referred to as the "Zoning Map," which map and all of the notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(Ord. 110, passed 11-15-97; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

Cross-reference:

Fire zone map, see § 32.36

§ 155.102 BOUNDARIES.

(A) Zoning district boundary lines of this chapter follow lot lines, railroad right-of-way lines, the center of watercourses, or the corporate limit lines, all as they exist upon the effective date of this chapter.

(B) Appeals concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustment and Appeals.

(C) When any street, alley, or right-of-way is vacated by official action of the city, the zoning district abutting the center line of the alley or street public right-of-way shall not be affected by such proceedings.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

USES BY ZONING DISTRICT

§ 155.105 USES.

(A) The uses allowed in the zoning districts shall only be as set forth in the following table:

TABLE USES BY ZONING DISTRICT

Use Types

"A"=Accessory Use

"C"=Conditional Use

"P"=Permitted Use

"S"=Special Use

"I"=Interim Use

Shaded=Not Permitted

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

TABLE USES BY ZONING DISTRICT

Use Types

"A"=Accessory Use

"C"=Conditional Use

"P"=Permitted Use

"S"=Special Use

"I"=Interim Use

Shaded=Not Permitted

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

GENERAL USE

Essential Services

P

P

P

P

P

P

P

P

P

P

P

P

Planned Unit Development (PUD)

C

C

C

C

C

C

C

C

C

C

C

Solar Energy System

A

A

A

A

A

A

A

A

A

A

A

A

§ 155.073

AGRICULTURAL USES

Agriculture1

P

P

Animal-related uses

C

C

Closed Landfill

P3

Feedlot

I

I

Home Extended Business

I

I

§ 155.066

Manuf. Home - relative/employee

C

C

Manufactured Home - temp. to provide home care for elderly or disabled

P

P

Wright Co Disab. Ord.

Mining and Extracting

I

§ 155.086

Non-commercial greenhouses

A

A

A

A

A

Residential Entitlements - Transfer

C

C

Retail nurseries, greenhouses and tree farms

C

C

C

C

Seasonal storage

P 4

Stands for sale of Ag. Products raised on property

P

P

Vehicles, Equipment, Machinery²

A

A

Transfer of Development Rights

C

C

Wind Energy Conversion System

I

I

§ 155.074

1 Including farming- and agricultural-related buildings and structures subject to Minnesota Pollution Control Agency standards, except commercial feedlots or other commercial operations; wholesale forestry; nurseries; green houses and tree farms.

2 Operation and storage of vehicles, equipment and machinery which are incidental to permitted or conditional uses.

3 Closed Landfill applies to former landfills that are qualified to be under the Closed Landfill Program of the Minnesota Pollution Control Agency and permitted uses include closed landfill management, indoor storage for public agencies, solar energy collection and public trails.

4 Permitted subject to the following standards:

a. An Administrative permit is required and such permit shall only be issued if approved by staff.

b. Must be an accessory use to the property upon which it is located and said property must be owner occupied.

c. All storage must be indoors.

d. Hours of operation are limited to 7 a.m. to 8 p.m.

e. No storage of commercial vehicles and/or equipment.

f. No signage advertising seasonal storage.

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

RESIDENTIAL USES

Accessory Buildings

A

A

A

A

A

A

A

A 1

§ 155.028

Dwellings

Single-
Family

P

P

P

P

P

I2

Two-
Family

P

Townhome

P

P

Apartment

P

Resid. care facilities

6 or fewer persons

P

P

P

P

P

P

16 or fewer persons

P

P

Day care facilities

10 or fewer persons

A

A

A

A

11-14 persons

A

A

A

A

C

C

Home Occupation

A

A

A

A

A

A

§ 155.065

Home Occupation - Special

I

I

I

I

I

I

I

§ 155.065

Nursing Homes

C

C

C

Open Space Development

C

Rec. Vehicles and Equip. - storage

A

A

A

A

Recreational facilities (i.e. pools, tennis court) - resident/guest use

A

A

A

A

A

A

C

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

PUBLIC INSTITUTIONAL USES

Adult Educ. and Training Facility

C

C

C

Cemetery, Crematorium

C

C

C

C

C

C

Gov. and Public Reg. Utility Bldg.

C

C

C

C

C

C

C

P

C

Library, Post Office, Museum

C

C

Parks and playgrounds - public

P

P

P

P

P

P

P

Place of Worship

- 250 or less persons in the assembly area(s)

C

C

C

C

C

C

P

P

P

P

C

- greater than 250 persons in the assembly area(s)¹

C

C

C

C

C

C

C

C

Pre-School

- licensed for 250 or less persons

C

C

C

C

P

P

P

C

- licensed for greater than 250 persons¹

C

C

C

C

C

C

Schools¹

C

C

C

C

C

Towers and Wireless Facilities

C

C

C

C

C

C

C

C

C

C

Ch. 153

1 May be used for storage of supplies and maintenance equipment used solely on the premises.

2 May be used for residential use if property was previously occupied as a residence.

3 May not be located on property guided or designated Business/Office Park or Industrial in the city's Comprehensive Land Use Plan.

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A-1

AP

R R

R- 1 R- 1a

R-2

R-3

R-4

B-1

B-2

B-3

I-1

P/I

COMMERCIAL USES

Assemblies - one-day¹

A

A

A

A

A

Auditorium, Concert Hall, Movie Theater

-250 or less persons in the assembly area(s)

P

-greater than 250 persons in the assembly area(s)2

C

Auto/Marine Sales/Rental and Lumberyard

C

Banquet/Conference/Meeting/Party Room, Commercial Recreation - Indoor,
Sports Training

-250 or less persons in the assembly area(s)

C

P

P

P

P

-Greater than 250 persons in the assembly area(s)2

C

C

Banquet/Conference/Meeting /Party Rooms - Seasonal

I

Brewpubs

P

P

Day Care Center

-250 or less persons

P

P

P

P

C

-Greater than 250 persons²

C

C

Fitness Centers³

P

P

P

C

Funeral Homes, Mortuaries²

C

C

Golf Course

P

P

P

P

Hospitals

C

C

Laboratories, Research & Development Facilities

P

Microbrewery & Taprooms⁴

P

P

P

Off-site Service Business

C

Off-street Loading/Parking

A

A

A

A

Open/Outdoor Service, Sales and Rental

C

C

Open/Outdoor Storage - Acc. Use

C

C

Outdoor Patio Area Food and Beverage Service

I

I

Outdoor Temporary Seasonal Sales⁵

I

I

§ 155.067

Parking - Principal Use

C

C

Pawn Shops

C

Ch. 115

Pet Stores

C

C

Professional Offices/Services6

P

P

P

P

Restaurants

Drive-thru Food Est.

C

Drive-thru Beverage Est.7

C

C

No drive-thru

P

P

A

Retail Sales and Services8

P

P

C

Veterinary Clinics

P

P

P

Vehicle Fuel or Wash⁹

C

- 1 Assemblies less than 250 persons in a one-day event, if approved by Zoning Administrator.
- 2 May not be located on property guided or designated Business/Office Park or Industrial in the city's Comprehensive Land Use Plan.
- 3 Fitness Center means a place of business with equipment and facilities for exercising and improving physical fitness, except Sports Training may be an accessory use, if approved by Zoning Administrator.
- 4 Permitted provided they do not manufacture or distribute more than 20,000 barrels annually.
- 5 Outdoor Seasonal Sales, including, but not limited to the short-term outdoor display and/or sale of seasonal products such as holiday trees, nursery products and horticulture products (fruits, vegetables, flowers, shrubs).
- 6 Professional Offices and Services including real estate, legal, architectural, engineering, financial, insurance, medical clinic, banking including drive-up tellers, employment, travel, studios including art and photography, and other similar office uses.
- 7 Drive-thru Beverage Establishments, including, but not limited to coffee shops, java shop and tea rooms, where at least 50% of the sales are derived from beverages.
- 8 Retail Sales and Services including, but not limited to, auto parts store, bakeries, jewelry, garden, hardware, sporting goods, books, music, drug, appliance (including incidental repair and assembly), video rental, on and off-sale liquor, convenience stores, department and discount stores, grocery stores, laundry, dry cleaning, barber and beauty shops, small repair shops related to retail service (i.e. shoe, tailoring, locksmith), hotel, motels.
- 9 Vehicle Fuel and Wash includes motor fuel stations and car washes. See Industrial Use Section for Auto Repair - Minor.

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A- 1

A P

R R

R- 1 R- 1a

R- 2

R- 3

R- 4

B- 1

B- 2

B- 3

I-1

P/I

TABLE USES BY ZONING DISTRICT

Base Zoning Districts

Also reference

A- 1

A P

R R

R- 1 R- 1a

R- 2

R- 3

R- 4

B- 1

B- 2

B- 3

I-1

P/I

INDUSTRIAL USES

Adult Uses - Primary

C

§ 155.068

Adult Uses - Accessory

P

P

§ 155.068

Auto Repair - Major

C

Auto Repair - Minor¹

C

P

Enclosed accessory retail, rental, service, processing or manufacturing activity

C

Manufacturing²

P

P

Mini-Storage

P

§ 155.296

Motor vehicle sales (indoor only)

P

On-Site Temporary Trailer - Office

I

Unsurfaced Parking Lot

I

Warehousing - non explosive materials/equipment

P

Wholesale Showrooms

P

1 Permitted subject to the following standards:

- a) Property does not abut a residential zoning district.
- b) No outdoor storage of equipment, products or tools.
- c) Repair of all vehicles shall occur within an enclosed building.
- d) Vehicles not being repaired, but used as a source of parts, shall be prohibited unless fully enclosed within a building.
- e) Outdoor storage of motor vehicles shall not be permitted for a period of more than 48 hours.

2 The manufacturing, fabrication, assembly, packaging, repair, testing, treatment, wholesaling, or storage of products, materials or equipment, including printing, machine shops, laboratories, and offices if the offices are directly associated with an allowed use and if the area devoted to offices does not exceed 50% of the area devoted to the allowed use.

3 Mini-storage facilities located on parcels identified in § 155.296 state highway standards shall comply with the regulations outlined in § 155.296(H).

(B) Explanation of Table in § 155.105(A): Uses by Zoning District.

(1) Organization of Table. The Table organizes all principal uses by use classification and use types.

(a) Use classifications. The use classifications are: general, agricultural, residential, public and institutional, commercial, and industrial.

(b) Use types. The specific use types identify the specific uses that are considered to fall within characteristics identified in the use classifications. For example, pawn shops and clinics are commercial use types in the B-1 General Business District.

(2) Symbols used in table.

(a) Permitted uses = P. A “P” indicates that a use is permitted, subject to compliance with all other applicable provisions of this code.

(b) Permitted accessory uses = A. An “A” indicates that a use is permitted, subject to compliance with all other applicable provisions of this code.

(c) Conditional permitted uses = C. A “C” indicates that a use is allowed only if a conditional use permit is issued by the city after compliance with the procedure and requirements set forth in § 155.440.

(d) Interim uses = I. An “I” indicates that a use may be allowed for a limited period of time if an interim use permit is issued by the city after compliance with the procedure and requirements set forth in § 155.441.

(e) Not permitted = shaded. A shaded space indicates that the listed use is prohibited in the respective base zoning district, but such prohibition shall not apply to an accessory use determined by the city to be similar to or consistent with the definition of a permitted or conditional use allowed in the zoning district (e.g. auditorium in a school).

(f) Unlisted uses. Whenever in any zoning district a proposed use is neither specifically permitted nor denied, the Zoning Administrator is authorized to classify the proposed use into an existing use type as set forth in the Table in § 155.105(A) that the Zoning Administrator determines most closely fits the proposed use. If no similar use determination is made by the Zoning Administrator, the proposed use is prohibited. In such case, the City Council on its own initiative may amend this chapter to allow the proposed use or an interested party may request an amendment to this chapter in accordance with the procedure and requirement set forth in § 155.440.

(Ord. 1401, passed 1-28-14; Am. Ord. 1406, passed 11-10-14; Am. Ord. 1407, passed 12-23-14; Am. Ord. 1502, passed 4-8-15; Am. Ord. 1504, passed 5-12-15; Am. Ord. 1506, passed 9-8-15; Am. Ord. 1507, passed 10-13-15; Am. Ord. 1602, passed 2-16-16; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1604, passed 5-10-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20; Am. Ord. 2103, passed 12-14-21; Am. Ord. 2202, passed 2-8-22; Am. Ord. 2203, passed 4-12-22)

A-1, GENERAL AGRICULTURAL DISTRICT

§ 155.115 PURPOSE AND INTENT.

(A) The purpose of the A-1, General Agricultural Zoning District is to provide suitable areas of the city for the retention and utilization of commercial agricultural uses and open space, prevent scattered non-farm uses from developing improperly, protect and preserve natural resources areas, and to secure economy in government expenditures for public utilities and services, while allowing places of worship under certain conditions.

(B) The intention of the A-1, General Agricultural Zoning District is to include those areas where it is necessary and desirable to preserve, promote, maintain, and enhance the use of the land for long-term agricultural uses; to protect such areas from encroachment by nonagricultural uses, structures, or activities; to prohibit those uses and densities that would require the premature extensions of urban public facilities; to promote logical and orderly development in the best interest of the health, safety, and welfare of the citizens of the city; to protect and maintain the open space for the creation of an attractive living environment; and to protect, preserve, and maintain the unique rural life style. Subdivisions are allowed at a density of one dwelling unit per 40 acres. There will be no urban services provided to this district.

(C) The purpose of the AP, Agricultural Preservation District is to assist in the preservation of commercial agricultural uses consistent with the goals of M.S. Chapter 40A (Agricultural Land Preservation Program), as it may be amended from time to time, and the City Comprehensive Land Use Plan.



(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15)

§ 155.116 PERMITTED USES.

See § 155.105 for permitted uses in an A-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 1401, passed 1-28-14)

§ 155.117 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an A-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.118 CONDITIONAL USES.

The following are conditional uses allowed in an A-1 District (requires a conditional use permit based upon procedures set forth in and regulated by § 155.440):

(A) Places of worship, banquet/conference/meeting/party room, commercial recreation-indoor, and sports training, or any combination of said uses on the same site or in the same building, provided that:

- (1) The minimum size site is three acres.
- (2) The use shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.
- (3) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.
- (4) Screening is provided in compliance with § 155.031.
- (5) A minimum of 25% green space shall be provided.
- (6) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(7) The user operates consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (e.g. worship service times), in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study (if any), nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(8) Any modification of an existing use which intensifies the use and/or surpass the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (A)(6) and (7) above.

(B) Governmental and public regulated utility buildings and structures necessary for the health, safety, and general welfare of the city, provided that:

(1) Utility buildings and structures shall be screened from view of the public right-of- way and adjacent properties.

(2) Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use.

(C) Retail nurseries, greenhouses, and tree farms. Retail nurseries, greenhouses, and tree farms provided that:

(1) The site accesses on a major collector;

(2) Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance; and

(3) Adequate off-street loading and service entrances are provided and regulated where applicable by § 155.020 et seq.

(D) Animal-related uses. Commercial riding stables, dog kennels, animal hospitals with overnight care, and similar uses, provided that:

(1) Any building in which animals are kept, whether roofed shelter or enclosed structure, shall be located a distance of 100 feet or more from any lot line;

(2) The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot; and

(3) The provisions of Minnesota Pollution Control Agency Regulations SW 53 (2), as amended, are complied with.

(E) Manufactured homes. Manufactured homes as an accessory home to a farmstead, provided that the mobile home is occupied by the property owner, a blood relative, or an employee working on the premises.

(F) Transfer of residential development density rights. Residential development density rights may be transferred to contiguous property within the city under the same ownership for the purpose of preserving productive farmlands provided that:

(1) The property is zoned A-1 and guided agriculture in the Comprehensive Plan.

(2) The property meets all access, size and soil requirements outlined for single-family residential development in the A-1 zone.

(3) The parcels are clustered in a contiguous fashion.

(4) Each cluster shall not contain more than four residential parcels.

(5) Each cluster has a setback of 1,000 feet from any other approved residential cluster.

(6) The cluster minimizes disruption to agricultural activities.

(7) The cluster does not adversely affect the adjacent properties.

(8) A deed restriction shall be placed upon the parcels from which the development rights have been transferred to prohibit additional development.

(9) The average density of one dwelling unit per quarter-quarter section is maintained. In no case shall density transfers be used to increase the residential density in the General Agriculture, A-1, District.

(10) The purpose of allowing such transfers is to preserve productive farmlands, and the Planning Commission shall consider the effects of the transfers on the environment, the surrounding neighborhood and nearby farm operations during its deliberation.

(G) Towers and wireless facilities. As found in Chapter 153.

(H) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purposes for this zoning code.

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 0202, passed 4-9-02; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 2001, passed 7-14-20)

§ 155.119 INTERIM USES.

The following are interim uses allowed in an A-1 District (requires an interim use permit based upon procedures set forth in and regulated by § 155.441):

(A) Banquets/conferences/meetings/party rooms in accordance with § 155.440(B);

(B) Feedlots in accordance with § 155.071;

(C) Home Extended Businesses in accordance with § 155.066;

(D) Home Occupation - Special in accordance with § 155.065;

(E) Mining, extraction, and the like. Mining, sand and gravel extraction, land reclamation, and alteration in accordance with § 155.087; and

(F) Wind Energy Conversion System in compliance with § 155.074.

(Ord. 2001, passed 7-14-20; Am. Ord. 2203, passed 4-12-22)

§ 155.120 LOT REQUIREMENTS AND SETBACKS.

All uses in the Agricultural Zoning Districts shall comply with the lot and setback requirements set forth in the following table and all other applicable regulations set forth in this code:

TABLE

AGRICULTURAL ZONING DISTRICT REQUIREMENTS

FEATURE

A-1

A-P

TABLE

AGRICULTURAL ZONING DISTRICT REQUIREMENTS

FEATURE

A-1

A-P

Minimum Lot Features

Size

See § 155.120

See § 155.127

Width

200 feet (from public road to the building site)

Length

No greater than 6 times the width or less than 200 feet (from public right-of-way/road easement to the rear lot line) and no less than half the width.

Setbacks¹ (principal buildings only - see Note 1 for detached accessory structures)

Front (whichever is greater)

From Centerline of Road

From Rights- of-Way Lines or Road Easement

State/Federal/ County Arterial Road²

130 ft.

65 ft.

Local Road

65 ft.

35 ft.

Cul de Sac

N/A

35 ft.

Side³

30 ft.

Rear³

50 ft.

Public water

Required for non-residential and non-agricultural uses requiring wastewater disposal

Other

Floor area ratio, minimum (excluding garages)

1,000 s.f.

Unit width at its narrowest point

24 ft.

Height⁴

2-1/2 Stories or 35 ft.

Roof Pitch (Minimum)

4:12

Enclosed Garage⁵

440 s.f. in Area

Residential Density

One per Quarter/Quarter Section

Eligibility

N/A

Cluster

N/A

Other Regulations to Consult (not all inclusive)

§ 154.091 Park and other Public Land Dedication

§ 155.009 Definitions

§ 155.031 Landscaping and Screening

§ 155.050 Off-Street Parking and Driveways

§ 155.066 Home Extended Businesses

§ 155.071 Feedlots

1 See §§ 155.028 and 155.071 for additional information/setbacks for detached accessory structures.

2 See NE Wright County Sub-Area Transportation Study for additional right-of-way.

3 100 ft. for accessory buildings which house livestock.

4 This height limitation shall not apply to grain elevators, silos, elevator lags, cooling towers, water towers, chimneys and smokestacks, electric transmission lines, or radio or television towers.

5 One enclosed garage at least 440 s.f. in size, with a minimum interior width of 18 ft., excluding stairways, landings and utility areas, shall be provided for each dwelling unit.

(Ord. 110, passed 11-15-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 116, passed 10-27-98; Am. Ord. 121, passed 2-23-99; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1804, passed 8-14-18; Am. Ord. 2001, passed 7-14-20; Am. Ord. 2103, passed 12-14-21) Penalty, see § 155.999

§ 155.121 BUILDING REQUIREMENTS.

(A) Limiting definitions.

(1) A QUARTER-QUARTER SECTION is a parcel of land consisting of approximately 40 acres and constituting the northeast, northwest, southwest, or southeast quarter of a quarter section of land in the United States Government survey grid system of land survey. For the purposes of this section, a government lot shall be considered a quarter-quarter section provided that it contains at least 30 acres of land above the ordinary high water level (OHWL).

(2) An ELIGIBLE QUARTER-QUARTER SECTION shall be any quarter-quarter section which meets all of the following:

- (a) It is complete and under common ownership;
- (b) It has frontage on a public road; and
- (c) It does not include any existing dwelling, commercial use or other non- agricultural development.

(3) An ELIGIBLE LOT OF RECORD shall be a lot of record existing prior to August 1, 1978 which has frontage on an existing public right-of-way, existing easement or other private roadway and does not include any existing dwelling, commercial use or other non-agricultural use or structure other than accessory uses, such as garages, storage sheds, and the like and which is greater than ten acres in size but does not qualify as an eligible quarter-quarter section.

(4) An eligible lot of record or quarter-quarter section may be permitted one single-family dwelling on the parcel as a whole, or one division as regulated in § 155.120(C). This right shall be referenced as the parcel's "entitlement."

(B) Determining entitlements on large parcels.

(1) On adjoining, common ownership parcels, including all contiguous land under common ownership, extra entitlements shall be available to the entire parcel according to the following conditions:

(a) The lands involved comprise more than 60 acres; and

(b) If the parcel is the result of a division since August 1, 1978, then the number of entitlements shall be determined by basing the calculations in division (B)(2) of this section to all contiguous lands under common ownership as they existed on August 1, 1978. These entitlements shall be allocated to the new parcels by the Zoning Administrator based on acreage and the standards contained herein, and appeals shall be heard by the City Council provided that no extra entitlements may be created.

(2) Entitlements for such parcels shall be determined by the Zoning Administrator as follows:

(a) The total acreage of the parcel shall be calculated using the best information available. The Zoning Administrator or City Council may require the applicant to provide a survey of the property in case of a dispute over total acreage of the parcel.

(b) 40 acres shall be subtracted from this total for each existing house on the parcel, and for each entitlement division which has occurred since August 1, 1978.

(c) The result from divisions (B)(2)(a) and (B)(2)(b) of this section shall be divided by 40 acres, and that result rounded to the nearest whole number, which shall be the number of entitlements the entire parcel is allocated. The use of these entitlements shall be subject to all regulations in chapter, including public road frontage requirements.

(C) Entitlement divisions. If a landowner chooses to use an entitlement on an eligible lot of record or eligible quarter-quarter section as a division, the division and remainder of the eligible parcel shall be subject to the following requirements:

(1) The owners of the eligible parcel must sign and record a deed restriction to apply to the remainder of the parcel. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder in accord with the terms of this section, unless it is rezoned.

(2) Landlocked parcels are prohibited. The remainder must have frontage on a public road. No lot or parcel may be created which does not have road frontage according to the requirements of this chapter.

(3) Lot size. Lots must be at least two acres and no more than five acres in size.

(4) Park dedication shall be provided according to § 154.091 of the subdivision regulations.

(5) There shall be no more than two entitlements clustered together without a separation of a public street or 1,000 foot setback from other clusters, except as allowed by a conditional use permit. This setback requirement does not apply to residential parcels existing prior to the enactment of Ordinance 116, passed October 27, 1998.

(Ord. 110, passed 11-15-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 116, passed 10-27-98; Am. Ord. 121, passed 2-23-99; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1605, passed 8-9-16; Am. Ord. 2001, passed 7-14-20)
Penalty, see § 155.999

AP, AGRICULTURAL PRESERVATION DISTRICT

§ 155.126 ELIGIBILITY.

(A) Any and all eligibility requirements contained in M.S. Chapter 40A, as it may be amended from time to time, are incorporated herein by reference and shall apply as set forth herein.

(B) Only legally created parcels, lots or lots of record which are designated as Agricultural (AG) in the City of St. Michael Comprehensive Land Use Plan shall be eligible. In those cases where a lot or parcel may lie within two different designations in the Land Use Plan, only the portion of land within the Agricultural (AG) designation will be eligible.

(C) Only lands which lie entirely within the A-1, General Agriculture zoning district shall be eligible. A residential density no greater than one residence per 40 acres shall be maintained, however, residences existing prior to the adoption of this section shall not preclude eligibility.

(D) Lands enrolled in the Agricultural Land Preservation Program must be legally created parcels, lots or lots of record which are at least 35 acres in size. Smaller parcels may be enrolled subject to approval by resolution of the City Council, provided that:

(1) The smaller parcels adjoin other parcels being enrolled in the Agricultural Land Preservation Program to provide a total greater than 35 acres in size.

(2) The combined parcels do not exceed the residential density permitted of one residence per 40 acres.

(3) No such parcel may be withdrawn from the Agricultural Land Preservation Program except in conjunction with similar parcels which total at least 35 acres in size; all remaining enrolled parcels must meet the 35 acre size requirement.

(4) No such parcel may be used as a new residential building site despite any eligibility granted by Chapter 155 of the city code, unless an overall density of one residence per 40 acres is maintained.

(E) Parcels, lots or lots of record may not be subdivided for the purpose of enrolling only part of the property in the Agricultural Land Preservation Program while retaining other parts for development or other non-agricultural uses. Divisions which strictly comply with the provisions of §§ 155.115 through 155.120, A-1, General Agriculture Zoning District may take place before or after enrollment in the Agricultural Land Preservation Program.

(Ord. 0204, passed 8-13-02; Am. Ord. 1401, passed 1-28-14)

§ 155.127 PROCEDURE/BENEFITS AND RESTRICTIONS/DURATION AND TERMINATION.

(A) Requirements for application and inclusion in an exclusive agricultural use zone, as defined in M.S. Chapter 40A, as it may be amended from time to time, and for obtaining the benefits thereof, shall include all those set forth in M.S. Chapter 40A, and are adopted herein by reference.

(B) Applications shall follow Chapters 154 and 155 of the city code.

(C) The benefits and restrictions which apply to property enrolled in exclusive agricultural use zones shall be as set forth in M.S. Chapter 40A, and are incorporated herein by reference.

(D) The duration and termination of an exclusive agricultural use zone shall be as set forth in M.S. Chapter 40A, which is incorporated herein by reference.

(Ord. 0204, passed 8-13-02; Am. Ord. 1401, passed 1-28-14)

§ 155.128 PERMITTED USES.

See § 155.105 for permitted uses in an AP District.

(Ord. 1401, passed 1-28-14)

§ 155.129 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an AP District.

(Ord. 1401, passed 1-28-14)

§ 155.130 CONDITIONAL USES.

All conditional uses, subject to the same conditions, as allowed in the A-1 District, except towers and wireless facilities, are conditional uses allowed in the AP District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440).

(Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 155.131 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the A-1 District, except mining, extraction and similar uses as determined by the Zoning Administrator, are interim uses allowed in the AP District (requires an interim use permit issued in accordance with the procedures set forth and regulated by § 155.440).

(Ord. 2001, passed 7-14-20)

R-1a, R1 - R4, AND RR RESIDENTIAL ZONING DISTRICTS

§ 155.140 PURPOSE AND INTENT.

(A) The purpose of the R-1, R-1a and R-2, Single-Family Residential Districts, is to provide for low density single-family detached residential dwelling units and directly related complementary uses, as well as compatible nonresidential development - schools, churches, and parks - at appropriate locations.

(B) The purpose of the R-3 and R-4, Multiple-Family Residential Districts, is to provide for townhomes and multiple-family dwellings and directly

related complementary uses, as well as compatible nonresidential development - schools, churches, and parks - at appropriate locations.

(C) The purpose of the RR, Rural Residential District is to provide for single-family detached dwelling units on acreage lots, and directly related complementary uses, as well as compatible nonresidential development - churches and parks - at appropriate locations where there are abundant natural resources and challenges extending city sewer and water services.

SINGLE FAMILY



MULTI-FAMILY



(Ord. 1401, passed 1-28-14; Am. Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20)

§ 155.141 RESIDENTIAL LOT AND BUILDING REQUIREMENTS.

All uses in the Residential Zoning Districts shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

TABLE

RESIDENTIAL ZONING DISTRICT REQUIREMENTS

FEATURE

RR

R-1a

R-1

R-2

R-3

R-4

TABLE

RESIDENTIAL ZONING DISTRICT REQUIREMENTS

FEATURE

RR

R-1a

R-1

R-2

R-3

R-4

Maximum Density

Dwelling Units (DU) per Developable Area (excluding wetlands, floodplains, etc.)

- Standard Dev.

0.25 (10 DU per 40 acres)

2.0

2.0

1.0

6.0

12.0

- Open Space Dev.

0.50 (20 DU per 40 acres)

Not applicable (NA)

NA

NA

NA

NA

Minimum Lot Features

Lot Size

- Detached Residential Dwelling Units

Standard Dev: 2 acres, excluding wetlands and slopes steeper than 18%

Open Space Dev: 1 acre, excluding wetlands and slopes steeper than 18%

8,450 s.f.

11,250 s.f

20,000 s.f

7,000 s.f.

N/A

- Two-family, Townhome or Quadraminium Dwelling Units

N/A

N/A

N/A

N/A

7,000 s.f.

5,000 s.f.

- Multiple-family Dwelling Units

N/A

N/A

N/A

N/A

4,500 s.f

3,500 s.f.

Setbacks

Principal Building

Front

30 feet

25 feet

30 feet1

30 feet

Side (garage)

10 feet

7.5 feet

7.5 feet attached garages not abutting the public ROW

7.5 feet

Side (non- garage)

10 feet

7.5 feet

10 feet

10 feet

Side (attached product)

N/A

N/A

N/A

10 feet

Rear

30 feet

30 feet

30 feet^{2, 3}

30 feet

Lot Width, Minimum

Standard Dev: 150 ft.

Open Space Dev: 100 ft.

Interior: 65 ft.

Corner: 82.5 ft.

Interior: 90 ft.

Corner: 100 ft.

50 ft., detached

32 ft. attached

Lot Depth, Minimum

150 ft., but no more than 6 times the Lot Width

130 ft.

(150 ft. double frontage)

125 ft.

(145 ft. double frontage)

100 ft.

Other

Floor/Unit Area Ratio, Minimum (excluding garages)

1,000 s.f.

850 s.f.

1,000 s.f

850 s.f

Apartments and Condominiums

Efficiency: 525 s.f

1 Bedroom: 600 s.f

2 Bedroom: 720 s.f

Unit Width at its Narrowest Point

24 ft.

24 ft., detached

Unit Type Ratio

The number of efficiency apartments in a multiple dwelling shall not exceed 5% of the total number of apartments, except in the case of elderly (senior citizen) housing where efficiency apartments shall not exceed 20% of the total number of apartments.

Maximum Lot Hard Surface Coverage

25% - House/ accessory structures

35% - House/accessory structures

50% - Total combination of house/accessory structures and impervious surfacing (driveways, sidewalks and patios)

N/A

Minimum Usable Open Space (per dwelling unit)

N/A

N/A

500 s.f.

Height (Maximum)

2½ stories or 35 ft., whichever is less

2½ stories or 35 ft., whichever is less

Attached: Three stories or 35 feet, whichever is less

Detached: Two stories or 25 feet, whichever is less

Roof Pitch (Minimum)

4:12

4:12

N/A

Grade Elevation

As described in the city Engineering Guidelines - Minimum Requirements for Lot Surveys

Public Sewer/Water

Required for non-residential uses requiring wastewater disposal

Required

Attached Enclosed Garage

440 s.f. in area5

Detached and Attached Townhomes: 440 s.f. in area5

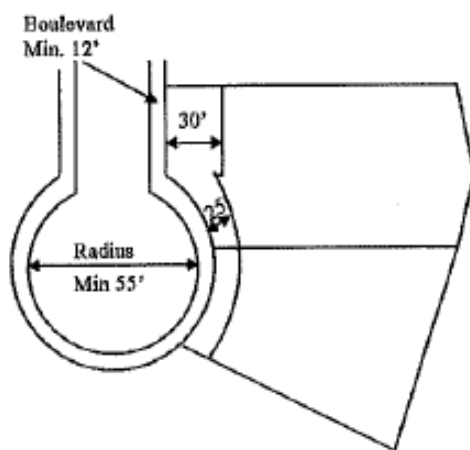
Apartments and Condominiums6

Garage Frontage

Maximum garage width7

Maximum garage width for detached and attached townhomes7

Notes:



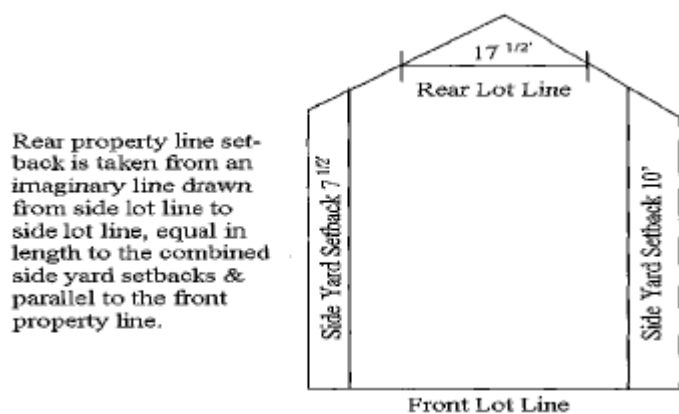
1 RR, R-1a, R-1 and R-2: Cul-de-sac lots shall be allowed a front yard setback of 25 feet for the portion of the lot fronting on the outside curve of the cul-de-sac if:

(a) The right-of-way has a minimum radius of 55 feet; and

(b) The boulevard (the street right-of-way area between the edge of the curb/pavement and the front property line) is a minimum of 12 feet in width.

2 R1 and R2: Lots platted prior to February 23, 1999 shall be allowed a rear yard setback of 15 feet if the depth of the parcel at the building pad is less than 110 feet. Decks may be setback 15 feet to a rear property line, provided they are not within an easement. Accessory buildings 120 square feet or less in size may have a rear yard setback of 10 feet.

3 R1 and R2: Irregular Shaped Lots, the measurement of the rear yard setback is taken from a line drawn from side lot line(s) to side lot line(s) equal in length to the required side yard setbacks, parallel to and at a maximum distance from the front property line.



4 R3 and R4: Side yard setback: 30 feet when abutting public street or single-family residential district. Side yard setback is not applicable where a structure has shared walls as in the case of two-family and quadraminiums.

5 One enclosed garage at least 440 s.f. in size, with a minimum interior width of 18 ft., or at least two single stall garages with each stall at least 220 s.f. in area with a minimum width of 10 feet, excluding stairways, landings and utility areas, shall be provided for each dwelling unit.

6 One enclosed, attached garage or parking space at least 220 s.f. in size, with a minimum interior width of 10 ft., excluding stairways, landings and utility areas, shall be provided for each dwelling unit. The garage or parking space shall be accessible from the interior of the principal building.

7 The maximum amount of garage width facing a public right-of-way shall not exceed 45 ft., with the first-floor living area of the principal structure facing the front yard at least 50% of the width of the attached garage. Portions of an attached garage may be excluded from the garage frontage

calculation if designed to appear as living area and is not directly accessible to the outside, as reviewed and approved by the Zoning Administrator.

Other Regulations to consult (not all inclusive):

§ 155.009, Definitions

§ 155.030, Fences Generally

§ 155.031, Required Landscaping and Screening

§ 155.045, General Requirements

§ 155.050, Driveways and Parking in Residential Districts

§ 155.490, Signage

(Ord. 1401, passed 1-28-14; Am. Ord. 1605, passed 8-9-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1705, passed 12-12-17; Am. Ord. 1804, passed 8-14-18; Am. Ord. 1806, passed 10-23-18; Am. Ord. 1901, passed 1-8-19; Am. Ord. 2001, passed 7-14-20; Am. Ord. 2103, passed 12-14-21)

R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 155.146 PERMITTED USES.

See. § 155.105 for permitted uses in an R-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1401, passed 1-28-14)

§ 155.147 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an R-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 0703, passed 7-10-07; Am. Ord. 1401, passed 1-28-14)

§ 155.148 CONDITIONAL USES.

The following are conditional uses allowed in the R-1 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Governmental and public regulated utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that if abutting a residential district, the requirements of § 155.031 are complied with.

(B) Residential planned unit development as regulated by § 155.465 et seq.

(C) Adult education and training facility, subject to the following:

(1) The land area containing such use must abut a commercial or industrial use or district;

(2) Driveway access shall be directly from a road designated as a collector or arterial road in the city's Comprehensive Transportation Plan;

(3) The land area containing such use must be at least five acres and no more than ten acres;

(4) Building, driveway and parking setbacks shall be double those of the underlying zoning district where abutting a residentially planned area;

(5) A minimum of 50% of the site shall be landscaped;

(6) Buildings shall be designed to reflect a residential character;

(7) There shall be no accessory buildings permitted;

(8) No overhead doors shall face any public right-of-way;

(9) There shall be a maximum of one overhead/garage door for each 10,000 square feet of land area of the parcel containing such use;

(10) Buildings and uses with the potential for noise, air, odor, smoke or vibration impacts as determined by the city must be set back a minimum of 250 feet from any residential use or district;

(11) There shall be no retail or commercial operations conducted in association with the facility;

(12) There shall be no outside storage;

(13) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost;

(14) The user operates consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities consisting the use, in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study (if any), nearby land uses and other related factors, and incorporated into a conditional use permit agreement; and

(15) Any modification of an existing use which intensifies the use and/or surpasses the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (C)(13) and (14) above.

(D) Greenhouses, retail or wholesale nurseries, subject to the following:

- (1) The property must have a principal residential use;
- (2) The land area containing such use must be a minimum of five acres and a maximum of ten acres;
- (3) Not more than 10% of the land area shall be covered by a retail/wholesale building or structure;
- (4) All activities associated with the accessory/commercial use must be set back at least 20 feet from all property lines adjacent to properties used or planned for residential purposes and the setback area must be maintained as green space;
- (5) When abutting a residential use and a residential use district, the property must be screened and landscaped in compliance with § 155.031;
- (6) All accessory/commercial use buildings must be setback a minimum of 30 feet from all property lines;
- (7) The property must be located on a county or state road and must have and maintain at least 300 feet of frontage on the road;
- (8) The property may not access directly onto a county or state road unless the access is at a location identified as a major intersection on the city's Transportation Plan (usually ½ mile intersection spacing);
- (9) The principal and accessory/commercial use must be connected to public sanitary sewer and water services;
- (10) At the sole discretion of the city, provisions for eventual urbanization must be made in the placement of all buildings and structures. The property owner may be required to prepare, at the owner's expense, a concept plan illustrating how the property and adjacent properties may be developed consistent with the city's Comprehensive Land Use Plan and with the zoning regulations in Chapter 155 of the city code. The city may also require the dedication of road or utility easements in conjunction with the

issuance of the conditional use permit if, in the determination of the city, the easements may be necessary to serve adjacent or distant parcels with urban services (sanitary sewer, water, roads, storm sewer) in the future or if the conditional use could serve as a potential obstacle to the efficient provision of those services;

(11) If the approved commercial use is discontinued for six consecutive months, the commercial building and all accessories to the commercial use must be removed by the owner from the subject property; and the conditional use permit for the commercial use shall thereafter be null and void; and

(12) If the property has an existing greenhouse, retail or wholesale nursery commercial use, and such commercial use is continued, a residential use may be added only if a conditional use permit for the commercial use is issued by the city subject and according to all the conditions set forth in this § 155.148(E).

(E) Places of worship, pre-schools, and schools, provided that:

(1) The minimum size site is three acres.

(2) The use shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.

(3) When adjacent to or across the street from a property zoned residential or designated residential in the Comprehensive Plan, the following apply:

(a) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.

(b) Screening is provided in compliance with § 155.031.

(c) A minimum of 25% green space shall be provided.

(4) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(5) The user operates consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary

activity or activities constituting the use (e.g. worship service times), in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study (if any), nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(6) Any modification of an existing user which intensifies the use and/or surpasses the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (E)(4) and (5) above.

(F) Towers and wireless facilities. As found in Chapter 153.

(G) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 110, passed 11-15-97; Am. Ord. 133, passed 10-10-00; Am. Ord. 0306, passed 5-27-03; Am. Ord. 0605, passed 7-25-06; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 2001, passed 7-14-20)

§ 155.149 INTERIM USES.

Special home occupation as regulated by § 155.065 is an interim use allowed in the R-1 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

R-1a, SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 155.151 PERMITTED USES.

See § 155.105 for permitted uses in an R-1a District.

(Ord. 2001, passed 7-14-20)

§ 155.152 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an R-1a District.

(Ord. 2001, passed 7-14-20)

§ 155.153 CONDITIONAL USES.

All conditional uses, subject to the same conditions, as allowed in the R-1 District are conditional uses allowed in the R-1a District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440).

(Ord. 2001, passed 7-14-20)

§ 155.154 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the R-1 District are interim uses allowed in the R-1a District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 155.161 PERMITTED USES.

See § 155.105 for permitted uses in a R-2 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.162 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in a R-2 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.163 CONDITIONAL USES.

All conditional uses, subject to the same conditions, as allowed in the R-1 District are conditional uses allowed in the R-2 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440).

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.164 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the R-1 District are interim uses allowed in the R-2 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

§ 155.176 PERMITTED USES.

See § 155.105 for permitted uses in a R-3 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.177 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in a R-3 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.178 CONDITIONAL USES.

The following are conditional uses allowed in the R-3 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Governmental and public regulated utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that if abutting a residential district, the requirements of § 155.031 are complied with.

(B) Residential planned unit development as regulated by § 155.465 et seq.

(C) Nursing homes and similar group housing, but not including hospitals, sanitariums, or similar institutions, provided that:

(1) Side yards are double the minimum requirements established for this district and are screened in compliance with § 155.031;

(2) Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and screened in compliance with § 155.031; and

(3) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.

(D) Group family day-care facilities, as defined by § 155.009, licensed by the state and serving 14 or fewer persons.

(E) Places of worship, pre-schools, and schools, provided that:

(1) The minimum size site is three acres.

(2) The use shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.

(3) When adjacent to or across the street from a property zoned residential or designated residential in the Comprehensive Plan, the following apply:

(a) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.

(b) Screening is provided in compliance with § 155.031.

(c) A minimum of 25% green space shall be provided.

(4) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(5) The user operates consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (e.g. worship service times), in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study (if any), nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(6) Any modification of an existing use which intensifies the use and/or surpasses the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (E)(4) and (5) above.

(F) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15)

§ 155.179 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the R-1 District are interim uses allowed in the R-3 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

R-4, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

§ 155.191 PERMITTED USES.

See § 155.105 for permitted uses in an R-4 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.192 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an R-4 District.

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.193 CONDITIONAL USES.

All conditional uses, subject to the same conditions, as allowed in the R-3 District are conditional uses allowed in the R-4 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440).

(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.194 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the R-1 District are interim uses allowed in the R-4 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

RR, RURAL RESIDENTIAL DISTRICT

§ 155.197 PERMITTED USES.

See § 155.105 for permitted uses in an RR District.

(Ord. 1806, passed 10-23-18)

§ 155.198 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an RR District.

(Ord. 1806, passed 10-23-18)

§ 155.199 CONDITIONAL USES.

The following are conditional uses allowed in the RR District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Governmental and public regulated utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that if abutting a residential district, the requirements of § 155.031 are complied with;

(B) Residential planned unit development as regulated by § 155.465 et seq.;

(C) Places of worship, provided that:

(1) The minimum size site is three acres;

(2) The use shall be located along an improved (blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway;

(3) Side, rear, and parking setbacks shall be double the standard requirement, but no less than 30 feet;

(4) Screening is provided in compliance with § 155.031;

(5) A minimum of 25% green space shall be provided;

(6) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time, with capacity calculated according to the Building Code adopted by the city, a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost;

(7) The user operates consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (for example, worship service times), in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study (if any), nearby land uses, and other related factors, and incorporated into a conditional use permit agreement; and

(8) Any modification of an existing use which intensifies the use and/or surpasses the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (D)(6) and (7) above;

(D) Open space development, provided that:

(1) The subdivision is at least 30 acres in size;

(2) At least 25% of the subdivision is preserved/established as open space or park ("Open Space") as follows:

(a) An emphasis is placed on preserving lakeshore, creeks, wooded areas, linking open space/trail corridors, and prominent views/entry points;

(b) Wetlands and right-of-way areas may not count towards the required open space;

(c) All open space is to be owned by a homeowner's association (HOA) or city, at city's discretion;

(d) There shall be no park dedication credit for any of the open space, whether owned by an HOA or dedicated to city; and

(e) Permanent conservation or use easements must be recorded against the open space in a form approved by city, to ensure proper maintenance and protection, including providing the city the right to maintain and assess said costs to all lots in the subdivisions;

(3) All lots within the subdivision shall be part of a private community septic system (PCSS) with the following requirements:

(a) Developer shall enter into an agreement with city allowing, among other things, the city to conduct regular inspections of the PCCS, and to repair or replace the PCCS as determined necessary by the city and assess the costs to each contributing lot in the subdivision;

(b) Designed to accommodate future central sanitary sewer in terms of layout, location of PCCS, establishment of easements, and other factors as determined by the city;

(c) Agree to hook up to city sanitary sewer when available and pay standard assessments and fees; and

(E) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 1806, passed 10-23-18; Am. Ord. 2001, passed 7-14-20)

§ 155.200 INTERIM USES.

All interim uses, subject to the same conditions, as allowed in the R-1 District are conditional uses allowed in the RR District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441).

(Ord. 2001, passed 7-14-20)

B-1, GENERAL BUSINESS DISTRICT

§ 155.205 PURPOSE AND INTENT.

The purpose of the B-1, General Business District, is to provide appropriately located lands for the full range of business uses needed by the region's residents, businesses, and workers, consistent with the Comprehensive Land Use Plan; to strengthen the city's economic base and provide employment opportunities close to home for residents; and to create suitable environments for various types of business, office, and retail uses; and to offer opportunities for various types of assemblies with careful consideration of access, traffic, and parking.



(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15)

§ 155.206 PERMITTED USES.

See § 155.105 for permitted uses in a B-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

§ 155.207 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in a B-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 126, passed - - ; Am. Ord. 1401, passed 1-28-14)

§ 155.208 CONDITIONAL USES.

The following are conditional uses allowed in the B-1 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Governmental and public regulated utility buildings and structures necessary for the health, safety, and general welfare of the community.

(B) Commercial planned unit development as regulated by § 155.465 et seq.

(C) Drive-through food and beverage establishments, provided that:

(1) The drive-through lane shall be designed to accommodate stacking of at least five vehicles from the point of ordering, exclusive of required parking and driveway areas; and

(2) Audio equipment associated with drive-through lanes must be designed and oriented in a manner not to be audible from adjacent properties.

(D) Car washes (drive through, mechanical, and self-service), provided that:

(1) Stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum 30-minute period; and

(2) Provisions are made to control and reduce noise.

(E) Vehicle service stations including fuel stations, minor repair, and tire and battery stores and services, provided provisions are made to control and reduce noise affecting residential properties.

(F) Open or outdoor storage as an accessory use, provided that:

(1) The area is fenced and/or screened from view of adjacent properties and public right-of-way in compliance with § 155.031;

(2) The storage area is improved according to § 155.050; and

(3) The use does not take up parking space as required for conformity to this chapter.

(G) Automobile sales, farm and construction implement sales, marine sales, and lumberyards, and the rental of any of the above, provided that:

(1) A minimum lot area of two acres is required;

(2) The ratio of the building footprint to the sales lot size shall be a minimum ratio of 1:2;

(3) All outdoor sales areas shall be in the side and/or rear yards, and no closer to the front setback than the main structure on the site;

(4) Land along all public street areas shall be maintained as landscaped green areas;

(5) Side and rear setbacks:

(a) In the case of a premises adjoining an agricultural and/or residential zoning district, side and rear yard building setbacks shall be not less than 50 feet in depth and width; and

(b) In the case of premises adjoining a commercial, industrial and/or public/institutional zoning district, side and rear yard building setbacks shall be not less than 30 feet in width and depth.

(6) No outdoor speakers may be used at any time.

(H) Open or outdoor service, sales, and rental as an accessory use, provided that:

(1) Outside services, sales, and equipment rental connected with the principal use are limited to 30% of the gross floor area of the principal use; and

(2) Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with § 155.031.

(I) Crematorium, funeral home, hospital, library, mortuary, museum, post office, and any of the following uses or combination of the following uses, on the same site or in the same building, which have greater than 250 persons in the assembly area(s) utilized at the same time - auditorium, concert hall, movie theater, banquet/conference/meeting/party room, commercial recreation - indoor, place of worship, and sports training, provided that:

(1) The use(s) shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.

(2) When adjacent to, or across the street from, a property zoned residential or designated residential in the Comprehensive Plan, the following apply:

(a) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.

(b) Screening is provided in compliance with § 155.031.

(c) A minimum of 25% green space shall be provided.

(3) For assembly uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and

long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(4) The user operates the assembly consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (e.g. motion picture showings, worship service times, or other assembly function), in addition to accessory uses. The operation plan shall be based on the traffic impact study, nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(5) Any modification of an existing use which intensifies the use and/or surpasses the 250 person capacity threshold shall require an amended conditional use permit and shall be subject to divisions (I)(3) and (4) above.

(J) Parking as a principal use, provided that:

(1) The area is located adjacent to or reasonably near the businesses the parking lot is intended to serve; and

(2) If access to the parking lot is through an adjacent parcel, the applicant shall be required to obtain a permanent access easement from the adjacent parcel before the conditional use permit is approved;

(K) Pet stores, provided that:

(1) All activity shall be within a completely enclosed building with soundproofing and odor control.

(2) Animals shall not cause annoyance or disturbance to another person by frequent howling, yelping, barking or other kinds of noise. This division shall only apply when the noise has continued for a ten-minute period. This requirement shall apply to the cumulative barking from the kennel, including one or several dogs.

(3) Outdoor kennels are prohibited.

(4) The owner of the pet store shall maintain a valid city commercial kennel license and shall comply with all applicable city and state building, health and maintenance standards.

(5) The pet store shall be subject to a reasonable limitation on the total number of animals for the size of the facilities. This limitation shall be determined by the city based on the size of the property upon which the use occurs, the uses of adjoining properties, and the existence of buffering and other applicable factors as determined by the city.

(L) Pawn shops as regulated by Chapter 115.

(M) Off-site services, provided that:

- (1) The maximum size building occupancy is 5,000 square feet.
- (2) At least 50% of the floor area specific to the off-site business must be dedicated to office, retail, or showroom uses and be open to the public a minimum of 40 hours per week.
- (3) The office, retail and showroom uses and principal building entrance shall be oriented to the highest classification road in a manner similar to nearby commercial users.
- (4) All other business activities within the building shall be limited to storage and assembly and shall not create any noise audible from the exterior of the building.
- (5) All service and delivery vehicles shall be parked in the rear of the lot or, for corner or thru lots, the opposite side of the building from the higher classification road.
- (6) Service and delivery vehicles are limited in number to no more than one per 400 square feet of building occupancy, rounded to the nearest whole number.
- (7) All service and delivery vehicles shall fit within standard parking stall dimensions.
- (8) Service and delivery vehicle parking areas shall be screened with landscaping if adjacent to an existing or planned residential use or a public roadway.
- (9) The height of the building shall be limited to no more than the height of the tallest structure on any adjacent properties, or no more than 18 feet if no adjacent property has a structure at the time of application.

(N) Day care center or pre-school with the licensed capacity to serve more than 250 persons at one time, provided that:

- (1) The use shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.
- (2) When adjacent to, or across the street from, a property zoned residential or designated residential in the Comprehensive Plan, the following apply:
 - (a) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.
 - (b) Screening is provided in compliance with § 155.031.

(c) A minimum of 25% green space shall be provided.

(3) A traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(4) The user operates the day care center consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (e.g. motion picture showings, worship service times, or other assembly function), in addition to accessory uses. The operations plan shall be based on the traffic impact study, nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(O) Tower and wireless facilities. As found in Chapter 153.

(P) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 110, passed 11-15-97; Am. Ord. 115, passed 3-24-98; Am. Ord. 133, passed 11-14-00; Am. Ord. 0305, passed 4-8-03; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1403, passed 9-9-14; Am. Ord. 1406, passed 11-10-14; Am. Ord. 1502, passed 4-8-15; Am. Ord. 1504, passed 5-12-15; Am. Ord. 1506, passed 9-8-15; Am. Ord. 2001, passed 7-14-20)

§ 155.209 INTERIM USES.

The following are interim uses allowed in the B-1 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441):

(A) Outdoor food and beverage service area, if compliant with each of the following requirements:

(1) Outdoor service area shall be enclosed by a fence or barriers approved by the Zoning Administrator;

(2) Pedestrian access shall comply with all ADA accessibility regulations;

(3) Garbage and debris shall be cleaned up and disposed of daily;

- (4) No outdoor storage of items in the service area; and
- (5) Lighting in the outdoor service area shall be directed onto the property.
- (B) Outdoor temporary seasonal sales. As regulated by § 155.067.
(Ord. 2001, passed 7-14-20)

§ 155.210 LOT AND BUILDING REQUIREMENTS.

All uses in the B-1 General Business Zoning District shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

B-1 DISTRICT REQUIREMENTS

B-1 DISTRICT REQUIREMENTS

Minimum Lot Features

Size

40,000 s.f.

Setbacks

Front

Side¹

Rear¹

30 ft.

15 ft.

20 ft.

¹Except abutting a residential district, then not less than 30 feet

Lot Width

100 ft.

Lot Depth

None

Other

Max. Hard Surface Coverage

85% (including bldg., parking, driveways, and the like)

Min. Principal Building Size

1,000 square feet, unless allowed to be decreased pursuant to a Conditional Use Permit

Maximum Height

35 ft. (unless allowed to exceed 35 ft. pursuant to a Conditional Use Permit)

Public Sewer and Water

Required

Other Regulations to Consult (not all inclusive)

§ 155.031, Required Landscaping and Screening

§ 155.033, Lighting

§ 155.049, Building Type and Construction

§ 155.050, Off-Street Park and Driveways

§ 155.051, Loading

§ 155.490, Signage

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 0408, passed 12-15-04; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

B-2 DOWNTOWN COMMERCIAL DISTRICT

§ 155.220 PURPOSE AND INTENT.

The purpose of the B-2 Downtown Commercial District is to provide for downtown business development, including establishment of commercial and service activities which draw from and serve customers from the entire community, while enhancing the overall character of the community in a manner consistent with the goals and objectives of the Downtown Plan. Also, to provide multi-family dwellings which can easily access the employment and support uses found in the downtown area.



(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.221 AREA PLAN FOR REDEVELOPMENT.

For any proposed residential or commercial development or redevelopment project, an overall plan for the entire block or neighborhood must be submitted demonstrating how the proposed project meets the community's vision for downtown and is compatible with adjacent existing uses and future planned development.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.222 PERMITTED USES.

See § 155.105 for permitted uses in a B-2 District.

(Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.223 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in a B-2 District.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.224 CONDITIONAL USES.

The following are conditional uses allowed in the B-2 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

- (A) Planned unit development as regulated by § 155.465.

(B) Pet stores as regulated by § 155.208(K).

(C) Drive-thru food and beverage establishments, provided that:

(1) The drive-thru lane shall be designed to accommodate stacking of at least five vehicles from the point of ordering, exclusive of required parking and driveway areas; and

(2) Audio equipment associated with drive-thru lanes must be designed and oriented in a manner not to be audible from adjacent properties.

(3) User shall be required, for the duration of the conditional use permit, to provide sufficient information as determined by the city to ensure the site continues to meet the definition of a drive-thru beverage use as defined by city ordinance.

(D) Towers and wireless facilities. As regulated by Chapter 153.

(Ord. 110, passed 11-15-97; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1504, passed 5-12-15; Am. Ord. 2001, passed 7-14-20)

§ 155.225 INTERIM USES.

The following are interim uses allowed in the B-2 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441):

(A) Outdoor food and beverage service area if compliant with each of the following requirements:

(1) Outdoor service area shall be enclosed by a fence or barriers approved by the Zoning Administrator;

(2) Pedestrian access shall comply with all ADA accessibility regulations;

(3) Garbage and debris shall be cleaned up and disposed of daily;

(4) No outdoor storage of items in the service area;

(5) Lighting in the outdoor service area shall be directed onto the property.

(B) Outdoor temporary seasonal sales. As regulated by § 155.067;

(C) Residential use. Provided the property was previously occupied as residential.

(Ord. 2001, passed 7-14-20)

§ 155.226 LOT AND BUILDING REQUIREMENTS.

All uses in the B-2 Downtown Commercial Zoning District shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

B-2 DISTRICT REQUIREMENTS

B-2 DISTRICT REQUIREMENTS

Minimum Lot Features

Size

15,000 s.f.

Setbacks

None, except 30 foot side and rear yards when abutting a residential district

Lot Width

100 ft.

Lot Depth

None

Other

Max. Hard Surface Coverage

None

Maximum Height

35 ft. (unless allowed to exceed 35 ft. pursuant to a Conditional Use Permit)

Min, Principal Building Size

1,000 square feet, unless allowed to be decreased pursuant to a Conditional Use Permit

Public Sewer and Water

Required

Other Regulations to Consult (not all inclusive)

§ 155.031, Required Landscaping and Screening

§ 155.033, Lighting

§ 155.049, Building Type and Construction
§ 155.050, Off-Street Park and Driveways
§ 155.051, Loading
§ 155.490, Signage

(Ord. 110, passed 11-15-97; Am. Ord. 116, passed 10-27-98; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.227 PARKING.

(A) Parking areas shall be located on the side of structures opposite the primary street frontage unless the Zoning Administrator determines such parking requirement is not practical under the applicable circumstances.

(B) Sites must be designed to create interrelated vehicular and pedestrian access to adjacent uses, properties and streets.

(C) Parking and drive aisle setbacks for front, side and rear yards shall be five feet.

(Ord. 110, passed 11-15-97; Am. Ord. 0502, passed 8-9-05; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.228 ARCHITECTURAL CRITERIA.

Nonresidential structures shall conform to the following standards, in addition to compliance with the requirements set forth in § 155.049.

(A) Structures shall be located with the primary building orientation toward the public street, and with the minimum reasonable structure setback from the right-of-way or front lot line unless the Zoning Administrator determines this requirement is not practical under the applicable circumstances;

(B) Buildings shall have a highly visible entry and shall feature no fewer than two of the following: canopies, overhangs, arcades, outdoor patios, integral planters, display windows, or other architectural details approved by the Zoning Administrator;

(C) Large, uninterrupted exterior wall surfaces are not permitted. No wall shall have an uninterrupted length exceeding 80 feet, without including at least two of the following: changes in roof plane, changes in color, texture, materials or masonry pattern, windows, or an equivalent element

that visually subdivides the wall. In addition to these aforementioned elements, additional landscaping may be required;

(D) Building materials. The design on facades not visible from a public right-of-way or residential land uses may be less ornamental than those visible from public right(s)-of-way or residential land uses, but shall still incorporate materials used on the rest of the building. Walls used for screening loading docks, trash enclosures, utilities, and the like shall use the same building materials and patterns as the wall itself on the principal building(s);

(E) Standard corporate style architecture shall be prohibited. Building entry points may use corporate colors or corporate images at the discretion of the City Council; and

(F) Roof-mounted mechanical equipment, solar panels, vents, and stacks shall be minimized and positioned so that they will not be seen from public rights-of-way or adjacent properties. If that is not possible, and the equipment is visible from public rights-of-way or adjacent properties, the equipment shall be screened with parapet walls or encasements colored similar to the building in a manner that eliminates reflections.

(Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 155.229 LIGHTING.

All exterior site and building lighting shall be decorative and comparable in style and quality to downtown public streetlights.

(Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

B-3, BUSINESS/OFFICE PARK DISTRICT

§ 155.260 PURPOSE AND INTENT.

The purpose of the B-3, Business/Office Park District is to provide for employment and strengthen the city's economic base with multi-use building and/or the establishment of business offices, wholesale showrooms, manufacturing, and related uses which are compatible with and complement each other as well as the surrounding land uses. It is the intent of this District that development will provide a high level of quality and consistency in architecture, landscaping, lighting, and other site features

with no outdoor storage. It is also the intent to allow development of light industrial uses which generate a high number of jobs per square foot rather than predominantly warehouse type uses, and are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants; and to allow smaller types of assemblies in a manner that will not negatively impact other uses in the district.



Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 2001, passed 7-14-20)

§ 155.261 PERMITTED USES.

See § 155.105 for permitted uses in a B-3 District.

(Ord. 1401, passed 1-28-14)

§ 155.262 PERMITTED ACCESSORY USES.

See § 155.105 for permitted uses in a B-3 District.

(Ord. 1401, passed 1-28-14)

§ 155.263 CONDITIONAL USES.

The following are conditional uses allowed in the B-3 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Buildings in excess of height limitations as specified in § 155.266 if compliant with each of the following requirements:

(1) For each additional two feet in allowable, actual, roof height calculated according to the Minnesota State Building Code, which is above the maximum building height allowed by § 155.266 of this chapter, front

and side yard setbacks shall be increased by a minimum of one foot. Buildings shall not exceed six stories, or 75 feet in height, whichever is less.

(2) Buildings shall be setback from a residentially zoned district the following minimum distances:

- (a) Fifty feet for buildings three stories or 35 feet or less in height.
- (b) One hundred feet for buildings 36-45 feet in height.
- (c) Two hundred feet for buildings 46-60 feet in height.
- (d) Two hundred fifty feet for buildings 61-75 feet in height.

(3) The construction shall not limit solar access to abutting and/or neighboring properties.

(B) Motels and hotels if the facility provides restaurant and food service with optional on-sale liquor.

(C) Retail commercial activities, personal services and food service (cafeteria, delicatessen, coffee shop) as an accessory use if compliant with each of the following requirements:

(1) The activity shall be located within a structure whose principal use is not commercial sales.

(2) All such activities shall be conducted in a clearly defined area of the principal building reserved exclusively for such use. Said area shall be physically segregated from other principal activities in the building.

(3) The area devoted to such activity shall not occupy more than 15% of the gross floor area of the building.

(4) Hours of operation shall be limited to 6:00 a.m. to 10:00 p.m. unless specifically modified by the City Council.

(5) No directly or indirectly illuminated sign or sign in excess of ten square feet identifying the name of the business shall be visible from the outside of the building.

(6) No signs or posters of any type advertising products for sale or services shall be visible from outside the building.

(D) Warehousing/indoor storage if the use is an accessory to a permitted use within this District.

(E) Towers and wireless facilities. As regulated by Chapter 153.

(Am. Ord. 0605, passed 7-25-06; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 155.264 LOT AND BUILDING REQUIREMENTS.

All uses in the B-3 Business/Office Park Zoning District shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

B-3 DISTRICT REQUIREMENTS

B-3 DISTRICT REQUIREMENTS

Minimum Lot Features

Size

40,000 s.f.

Setbacks

Front¹

Side²

Rear²

30 ft.

20 ft.

20 ft.

¹ Except not less than 50 feet on a front yard separated from a residential district by a street.

² Except not less than 50 feet on a side or rear yard abutting a residential district.

Lot Width

100 ft.

Lot Depth

100 ft.

Other

Max. Hard Surface Coverage

75% (including bldg., parking, driveways, and the like)

Maximum Height

35 ft. (except as permitted by CUP in § 155.263)

Min. Principal Building Size

1,000 square feet, unless allowed to be decreased pursuant to a Conditional Use Permit

Public Sewer and Water

Required

Architectural Design Guidelines

All developments and/or sites shall provide General Architectural Design Guidelines acceptable to city including;

(1) Buildings shall have a highly visible entry facing or oriented toward the principle road. Fifty percent of the building wall adjacent to the principle road shall contain windows and ground plantings to break up the long expanse of the wall;

(2) No wall shall have an uninterrupted length exceeding 80 feet without including at least two of the following: changes in plane; changes in color, texture, materials or masonry pattern; windows; or an equivalent element that subdivides the wall.

(3) Loading docks, and the like, shall not be located on the same side and be visible from principal roads, collector roads or residentially zoned properties. For buildings with visibility on two or more sides, the loading dock areas shall not be placed adjacent to the highest classification road.

(4) Parking must be setback a minimum of 10 feet, except for 50% of the combined parking areas and drive aisles adjacent to arterial road frontage shall be setback a minimum of 30 feet. Parking shall be setback a minimum of 50 feet from properties planned residential.

Landscaping

All developments and/or sites shall provide at least 125% of the required number of trees as found in § 155.031

Other Regulations to Consult (not all inclusive)

§ 155.031, Required Landscaping and Screening

§ 155.033, Lighting

§ 155.049, Building Type and Construction

§ 155.050, Off-Street Park and Driveways

§ 155.051, Loading

§ 155.490, Signage

(Am. Ord. 0605, passed 7-25-06; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

I-1, GENERAL INDUSTRIAL DISTRICT

§ 155.290 PURPOSE AND INTENT.

The purpose of the I-1, General Industrial District is to strengthen the city's economic base and provide employment opportunities close to home for residents by providing areas suitable for the location of general industrial activities which have adequate and convenient access to major streets, and provide effective controls for "nuisance" characteristics; and to allow smaller types of assemblies in a manner that will not negatively impact other uses in the district.



(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15)

§ 155.291 PERMITTED USES.

See § 155.105 for permitted uses in an I-1 District.

(Ord. 110, passed 11-15-97; Am. Ord. 135, passed 1-9-01; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

§ 155.292 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in an I-1 District.
(Ord. 110, passed 11-15-97; Am. Ord. 1401, passed 1-28-14)

§ 155.293 CONDITIONAL USES.

The following are conditional uses in an I-1 District (requires a conditional use permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Open or outdoor service, sale, and rental as a principal or accessory use, or farm and construction implement sales and service, if the outside services, sales, and equipment rental is connected with the principal use.

(B) Accessory, enclosed retail, rental, service, processing, or manufacturing activity other than that allowed as a permitted use or conditional use within this section if compliant with both of the following requirements:

- (1) Such use is allowed as a permitted use in a business district; and
- (2) Such use does not constitute more than 50% of the gross floor area of the principal use.

(C) Open or outdoor storage as an accessory use, provided that the city determines that the height and type of outdoor storage is compatible with the principal structure, and is screened from view by adjacent land owners.

(D) Major automobile repair shop, auto body repair and/or painting, and auto cleaning and reconditioning, provided that:

- (1) In the case of the premises adjoining a residential zoning district, required side and rear yard setbacks shall be not less than 50 feet for a structure and 20 feet for any parking or storage area;
- (2) All waste materials, debris, refuse, junk or damaged vehicles and parts shall be either kept entirely within an enclosed building, or completely screened from public streets and adjacent properties; and
- (3) No unlicensed or inoperable vehicles may be stored on the property.

(E) Adult uses - primary, as regulated by § 155.068 of this chapter.

(F) Towers and wireless facilities. As found in Chapter 153.

(G) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 110, passed 11-15-97; Am. Ord. 126, passed - - ; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0801, passed 1-8-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20)

§ 155.294 INTERIM USES.

The following are interim uses allowed in the I-1 District (requires an interim use permit issued in accordance with the procedures set forth in and regulated by § 155.441):

(A) On-site temporary trailer for office use provided that:

- (1) Building permit is obtained for the trailer;
- (2) Structure meets all building codes, fire codes and ADA (American Disabilities Act) accessibility regulations;
- (3) Front, side, rear and parking setbacks are in compliance with § 155.294; and
- (4) Driveway and parking access are reviewed and approved by the City Engineer.

(B) Unsurfaced parking area provided that:

- (1) Fire lanes are protected from parked vehicles;
- (2) Grading and erosion control are reviewed and approved by City Engineer.

(Ord. 2001, passed 7-14-20)

§ 155.295 LOT AND BUILDING REQUIREMENTS.

All uses in the Industrial Zoning District shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

I-1 DISTRICT REQUIREMENTS

I-1 DISTRICT REQUIREMENTS

Minimum Lot Features

Size

1.0 acre (43,560 s.f.)

Setbacks

Front

Side¹

Rear

35 ft.

15 ft.

30 ft.

¹Except a side yard abutting a street or residential district, not less than 30 feet

Lot Width

150 ft.

Lot Depth

None

Other

Driveway and Parking Setbacks

10 feet from all property lines, except for properties abutting a residential district, not less than 50 feet

Max. Hard Surface Coverage

85% (including bldg., parking, driveways, and the like)

Maximum Height

35 ft.

Min. Principal Building Size

1,000 square feet, unless by Conditional Use Permit

Public Sewer and Water

Required

Other Regulations to Consult (not all inclusive)

§ 155.031, Required Landscaping and Screening

§ 155.033, Lighting

§ 155.049, Building Type and Construction

§ 155.050, Off-Street Park and Driveways

§ 155.051, Loading

§ 155.296, State Highway Standards

§ 155.490, Signage

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 1401, passed 1-28-14; Am. Ord. 2001, passed 7-14-20) Penalty, see § 155.999

§ 155.296 SUPPLEMENTARY DISTRICT REGULATIONS.

The following standards shall apply in the I-1 district for any parcel of land abutting, or within 100 feet of State Highway 241 or the northwest corner of C.S.A.H. 36/Ogren Avenue NE (St. Michael 194 Business Park):

(A) Utilities. All utilities, including electrical, telephone, and gas, shall be constructed underground from the street or utility easement to the building.

(B) Building orientation, materials and construction.

(1) Buildings must have a highly visible entry facing or oriented toward State Highway 241 or Ogren Avenue NE. Fifty percent of the building wall adjacent to State Highway 241 or Ogren Avenue NE must contain windows and ground plantings to break up the long expanse of the wall.

(2) No wall may have an uninterrupted length exceeding 80 feet without including at least two of the following: changes in plane; changes in color, texture, materials or masonry pattern; windows; or an equivalent element that subdivides the wall.

(3) Loading docks, and the like, may not be located on the same side and be visible from State Highway 241 or Ogren Avenue NE. For buildings with visibility on two or more sides, the loading dock areas must not be placed adjacent to the highest classification road.

(4) No building or structure shall be constructed, altered or maintained having any metal, fiberglass or wood siding materials on any exterior surface except on an ornamental basis.

(5) Roof mounted mechanical equipment, vents, and stacks may not be allowed to be seen from State Highway 241, Ogren Avenue NE, public right-of-ways or adjacent properties. If equipment is visible from the public rights-of way or adjacent properties, the equipment must be screened or designed consistent with the principal structure. Long runs of exposed duct-work, pipes, conduits, or other similar items are prohibited.

(C) Outdoor storage. There shall be no outdoor storage on any lot, except outdoor storage may be permitted by conditional use permit with the following conditions:

(1) Shall be limited to 20% of the site.

(2) Shall be located on the opposite side of the building from State Highway 241 or Ogren Avenue NE and between the outside walls of the principal building.

(3) Shall meet all requirements of § 155.293(C) of this chapter.

(D) Parking of vehicles. No unlicensed or nonfunctioning motor, delivery or service vehicle(s) shall be parked or stored outside of any building. Only licensed and operable delivery and service vehicles may be parked overnight outside of a building on any lot.

(E) Accessory structures. No accessory building or structure shall be allowed on any lot.

(F) Wall signs. All wall signs shall use individual letters and numbers. All other signage shall follow the provisions of §§ 155.490, et seq.

(G) Trash receptacles. Trash receptacles, and the like, may not be located on the same side of State Highway 241 or Ogren Avenue NE, visible from State Highway 241 or Ogren Avenue NE, or building entries accessible to the public. For buildings with visibility on two or more sides, the trash receptacles areas should not be placed adjacent to the highest classification road.

(H) Mini-storage facilities. Mini-storage facilities located on parcels regulated in this section must meet the following conditions:

(1) The mini storage facility must be a multi -story building.

(2) The mini storage facility must be climate controlled.

(Ord. 0605, passed 7-25-06; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1704, passed 10-24-17; Am. Ord. 2001, passed 7-14-20; Am. Ord. 2004, passed 11-10-20)

P/I, PUBLIC/INSTITUTIONAL ZONING DISTRICT

§ 155.325 PURPOSE AND INTENT.

(A) The purpose of the P/I (Public/Institutional) District is to establish areas where both public and private institutional uses may be located in response to the health, safety, educational, and cultural needs of the city.

(B) The District is also intended to protect and provide for attractive and well-designed sites for public and institutional buildings in an environment characterized by controlled ingress and egress to streets and providing the screening and landscaping necessary to create a proper relationship with adjacent uses.



(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

§ 155.326 PERMITTED USES.

See § 155.105 for permitted uses in a P/I District.

(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

§ 155.327 PERMITTED ACCESSORY USES.

See § 155.105 for permitted accessory uses in a P/I District.

(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14)

§ 155.328 CONDITIONAL USES.

The following are conditional uses allowed in a P/I District (requires a Conditional Use Permit issued in accordance with the procedures set forth in and regulated by § 155.440):

(A) Governmental and public regulated utility buildings, wireless/cell phone towers on city- owned property, and structures necessary for the health, safety, and general welfare of the community, provided that the improved area is fenced and screened from view of neighboring residential uses and if abutting a residential district, the requirements of § 155.031 are complied with;

(B) City Hall, community center, fitness center, hospital, clubs and lodges, library, post office, museum, day care center, assisted living facilities, nursing homes, schools, place of worship, sheltered care home, provided that:

(1) The minimum lot size is three acres.

(2) Parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 155.031.

(3) Adequate off-street loading and service entrances are provided and regulated where applicable by § 155.051; and all service areas and loading docks shall be located behind the front facade line of the principal structure and regulated where applicable by § 155.051.

(4) The use shall be located along an improved (i.e. blacktop or concrete) collector or arterial roadway as identified in the city's Transportation Plan, but in no case shall it have direct access to an arterial roadway.

(5) When adjacent to, or across the street from, a property zoned residential or designated residential in the Comprehensive Plan, the following apply:

(a) Side, rear and parking setbacks shall be double the standard requirement, but no less than 30 feet.

(b) Screening is provided in compliance with § 155.031.

(c) A minimum of 25% green space shall be provided.

(6) For assembly uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity calculated according to the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and on adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset project impacts, which the user shall be responsible for implementing at its sole cost.

(7) For assembly users the user operates the assembly consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use (e.g. motion picture showings, worship service times, or other assembly function), in addition to accessory uses. The operations plan shall be based on the traffic impact study, if any, nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(8) Any modification of an existing use which intensifies the use and/or surpass the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (B)(6) and (7) above.

(C) Adult education and training facility, subject to the following:

(1) The land area containing such use must abut a commercial or industrial use or district;

(2) Driveway access shall be directly from a road designated as a collector or arterial road in the city's Comprehensive Transportation Plan;

(3) The land area containing such use must be at least five acres and no more than ten acres;

(4) Building, driveway and parking setbacks shall be double those of the underlying zoning district where abutting a residentially planned area;

(5) A minimum of 50% of the site shall be landscaped in compliance with § 155.031;

(6) When abutting a residential use or residential district, the site shall be screened and landscaped in compliance with § 155.031 of this chapter;

(7) Buildings shall be designed to reflect a residential character;

(8) There shall be no accessory buildings permitted;

(9) No overhead doors shall face any public right-of-way;

(10) There shall be a maximum of one overhead/garage door for each 10,000 square feet of land area of the parcel containing such use;

(11) Buildings and uses with the potential for noise, air, odor, smoke or vibration impacts, as determined by the city, must be set back a minimum of 250 feet from any residential use or district;

(12) There shall be retail or commercial operations conducted in association with the facility; and

(13) There shall be no outside storage.

(14) For uses with capacity for greater than 250 persons in the assembly area(s) utilized at the same time - with capacity based on the Building Code adopted by the city - a traffic impact study shall be conducted by the city's traffic consultant at the expense of the applicant. The traffic impact study shall assess the potential short-term and long-term traffic impacts associated with the proposed use on the site itself and one adjacent roadways. The traffic impact study shall identify appropriate mitigation and/or recommendations to offset projected impacts, which the user shall be responsible for implementing at its sole cost.

(15) The user operates the assembly consistent with an operations plan approved by the city that shall prescribe typical start and end times for the primary activity or activities constituting the use, in addition to accessory and auxiliary uses. The operations plan shall be based on the traffic impact study, nearby land uses and other related factors, and incorporated into a conditional use permit agreement.

(16) Any modification of an existing use which intensifies the use and/or surpasses the 250 person occupancy threshold shall require an amended conditional use permit and shall be subject to divisions (C)(14) and (15) above.

(D) Cemeteries and crematoriums provided that:

(1) The site is landscaped in accordance with § 155.031 (Required Landscaping and Screening);

(2) Direct views from all abutting residential property shall be buffered in accordance with § 155.031;

(3) The use and any structure shall meet minimum setback requirements;

(4) All accessory buildings used for maintenance purposes shall match in color and material;

(5) The use shall abut an arterial or collector street and access shall be achieved without conducting significant traffic on local residential streets; and

(6) Any crematory shall be setback not less than 600 feet from any lot line.

(E) Towers and wireless facilities. As regulated by Chapter 153.

(F) Other uses deemed by the Zoning Administrator to be similar to those set forth in this section and consistent with the purpose of this zoning district.

(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15; Am. Ord. 2001, passed 7-14-20)

§ 155.329 LOT AND BUILDING REQUIREMENTS.

All uses in the Public/Institutional Zoning District shall comply with the lot and building requirements set forth in the following table and all other applicable regulations set forth in this code:

P/I DISTRICT REQUIREMENTS

Minimum Lot Features

Size

None

Setbacks, Structures

Front

Side1

Rear

30 ft.

30 ft.

30 ft.

Setbacks, Parking and Driveways

20 ft.

Lot Width

100 ft.

Lot Depth

150 ft.

Other

Max. Hard Surface Coverage

75% (including bldg., parking, driveways, and the like)

Maximum Height

35 ft., except by Conditional Use Permit

Public Sewer and Water

Required

Mechanicals

All mechanical equipment and utility functions (such as, electrical conduits, meters, HVAC equipment) shall be located behind the front facade line of the principal structure. Mechanical equipment that is visible from the primary street or that is elevated more than 18 inches above grade shall be screened with material compatible with the architecture of the principal structure.

Other Regulations to Consult (not all inclusive)

§ 155.031, Required Landscaping and Screening

§ 155.033, Lighting

§ 155.049, Building Type and Construction

§ 155.050, Off-Street Park and Driveways

§ 155.051, Loading

§ 155.296, State Highway Standards

§ 155.490, Signs

(Ord. 0807, passed 10-14-08; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1506, passed 9-8-15)

W, WETLAND SYSTEMS DISTRICT

§ 155.340 PREAMBLE.

This subchapter hereby incorporates by reference the Wetlands Conservation Act [M.S. §§ 103G.221 et seq. (herein after referred to as the WCA)] and any future amendments adopted by the legislature. All wetlands, as defined in § 155.009 of this code, including those governed by the Department of Natural Resources, are covered by this subchapter. Standards outlined in this subchapter have precedence over WCA in situations where the city ordinance is more restrictive than WCA. The city is the Local Government Unity (LGU) for the Wetland Conservation Act (WCA); and therefore, requires any projects that impact wetlands to conform to the WCA and the city's wetland ordinance.

(Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08)

§ 155.341 PURPOSE.

Through the adoption and enforcement of this subchapter, the city shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices as provided for in the WCA when development occurs in the vicinity of wetlands. It is the intent of this subchapter to avoid the alteration and destruction of wetlands. Through the implementation of this subchapter, the city seeks to accomplish the following purposes:

(A) Balance the need to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the city;

(B) Promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to prevent soil erosion, and to retain sediment, nutrients and toxicants in wetland buffer strip areas before it discharges into community wetlands, lakes and streams, thus avoiding the contamination and eutrophication of these water features;

(C) Reduce human disturbances to wetlands by providing a visual and physical transition from surrounding yards; and

(D) Provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the city.

(Ord. 0408, passed 12-14-04)

§ 155.342 GENERAL PROVISIONS - IDENTIFICATION, DELINEATION, MITIGATION, TESTING AND REPORTING REQUIREMENTS.

(A) This subchapter shall apply to all lands containing wetlands and lands within the setback and wetland buffer strips required. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable federal, state, and city ordinances and regulations. These wetland protection regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland is located. This subchapter establishes four wetland classifications as defined below:

(1) Wetlands, exceptional quality. Exceptional quality wetlands have an exceptional floral diversity and integrity function, based on the results of MnRAM. They contain an abundance of different plant species with dominance evenly spread among several species. These wetlands may support some rare or unusual plant species. Invasive or exotic plant species are either absent or limited to small areas where some disturbance has occurred. These wetlands exhibit no evidence of significant man-induced water level fluctuation.

(2) Wetlands, high quality. High quality wetlands have a high floral diversity and integrity function, based on the results of the most recent version of MnRAM, and are still generally in their natural state. They tend to show less evidence of adverse effects of surrounding land uses. Exotic and invasive plant species may be present and species dominance may not be evenly distributed among several species. There tends to be little evidence of water level fluctuation due to storms and their shorelines are

stable with little evidence of erosion. They show little if any evidence of human influences resulting in higher levels of species diversity, wildlife habitat and ecological stability.

(3) Wetlands, moderate quality. Moderate quality wetlands have a moderate floral diversity and integrity function, based on the results of the most recent version of MnRAM. They have a slightly higher number of plant species present than low quality wetlands, often with small pockets of indigenous species within larger areas dominated by invasive or exotic species. Their relatively greater species diversity results in slightly better wildlife habitat. They exhibit evidence of relatively less fluctuation in water level in response to storms and less evidence of shoreline erosion than low quality wetlands. They also exhibit relatively less evidence of human influences; and therefore, tend to be of a higher aesthetic quality than low quality wetlands.

(4) Wetlands, low quality. Wetlands included in this category have a low floral diversity and integrity function, based on the most recent version of MnRAM, and have been substantially altered by agricultural or urban development that caused over-nitrification, soil erosion, sedimentation and water quality degradation. As a result of these factors these wetlands exhibit low levels of plant species diversity; overcrowding and dominance of such invasive species as reed canary grass and purple loosestrife; and related reduction in the quality of wildlife habitat. These wetlands may also tend to exhibit extreme water level fluctuations in response to storms and show evidence of shoreline erosion. These wetlands do provide for water quality and were an important role in protecting water quality downstream.

(B) The presence or absence of a wetland on the National Wetlands Inventory Map ("Inventory Map") does not represent a definitive determination as to whether a wetland covered by this subchapter is or is not present. Wetlands that are identified during site specific delineation activities but do not appear on the Inventory Map are still subject to the provisions of this subchapter.

(C) It is the responsibility of the applicant to determine whether a wetland exists on a subject property or within the setback from a wetland on an adjacent property. It is the responsibility of the applicant to delineate and document the wetland boundary of wetlands on the subject property in accordance with WCA requirements ("Wetland Delineation Report") and to evaluate the wetland buffer strip in accordance with § 155.347 of this code (Wetland Buffer Strip Evaluation Report). The Wetland Delineation Report and Wetland Buffer Strip Evaluation Report shall be valid for a period of no more than three years from the date of the field delineation for these reports. An applicant shall not be required to delineate wetlands on adjacent property. However, an applicant shall be required to review available information, including but not limited to the National Wetlands

Inventory Map, County Soil Survey Map, U.S. Fish and Wildlife Service Wetland Maps, and visual information such as the presence of wetland vegetation and hydro logic evidence which can be viewed from the subject property, to estimate the wetland boundary.

(D) Written documentation identifying the presence or absence of wetlands on the property, including all Wetland Delineation Reports and Wetland Buffer Strip Evaluation Reports, must be provided to the city by the Applicant with the Development Application. It is the responsibility of the applicant to contact the city to obtain any information regarding the documented wetland, including any existing MnRAM information, for inclusion in any documentation provided to the city by the applicant. The applicant must also contact the city to obtain any information on existing or proposed stormwater or NURP ponding within the development.

(E) A determination of the function and value of the wetland using the most recent version of MnRAM or other approved assessment methodology under Minnesota Rules 8420 must be completed by the applicant for the entire site submitted to the city in a Wetland Delineation Report.

(F) For Development Applications involving wetland alteration, the applicant must provide written documentation to the city with the Development Application regarding the avoidance and minimization efforts used to avoid or minimize impact upon the wetland. Conceptual Wetland Replacement or Wetland Banking Plans for any proposed impacts that require replacement under WCA or U.S. Army Corps of Engineers Regulatory Programs must be provided to the city by the applicant with the Development Application. It is the responsibility of the applicant to contact the city to obtain a wetland identification number for use in the Wetland Replacement, Wetland Restoration or Wetland Banking Plans for any replacement wetlands constructed within the city. Final Wetland Replacement, Wetland Restoration or Wetland Banking Plans must be submitted to the city for review and approval prior to release of the final plat or, if there is no plat approval involved, the first building permit for the entire subject property.

(G) If the applicant disputes whether a wetland exists or its classification, the applicant has the burden to supply detailed information supporting the applicant's assertion. This includes, but is not limited to, historical aerial photography, topographic, hydrologic, and floristic and/or soil data deemed necessary by the city (the LGU) under the WCA to determine the jurisdictional status of the wetland, its exact boundary and its classification.

(H) Wetland Buffer Strip Evaluation, Wetland Delineation Reports and Wetland Banking Plans supplied by the applicant shall be prepared by a qualified wetland delineator in accordance with current state and federal regulations. Wetland delineators must satisfy all certification requirements

that are established by the U.S. Army Corps of Engineers or the Minnesota Board of Water and Soil Resources or, in the absence of such certification, are determined by the Zoning Administrator to be a qualified wetland delineator.

(I) Prior to release of the final plat for any portion of the property, developer shall submit a cash escrow in amount determined by the Zoning Administrator to cover the city costs of monitoring fees and preparation of Annual Wetland and Wetland Buffer Strip Evaluation Report in manner consistent with WCA requirements. If unacceptable conditions or vegetation are identified within the Annual Buffer Reports or the Final Annual Buffer Report, the developer shall correct the area identified within 90 days, excluding December through March, of submission of the report.

(Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1401, passed 1-28-14)

§ 155.343 GENERAL STANDARDS.

The following standards apply to all lands that contain and/or abut a wetland or a wetland buffer strip:

(A) Structures intended to provide access to or across a wetland shall be prohibited unless a permit is obtained in conformance with Minnesota Statutes and applicable state rules and regulations.

(B) The Minnesota Pollution Control Agency's Urban Best Management Practices shall be followed to avoid erosion and sedimentation during the construction process. In addition, the applicant shall follow the regulations set forth in § 155.344.

(C) The manner in which storm water is routed through a natural wetland will be designed in accordance with the following hydro-period standards to avoid water level fluctuations to the wetland during storm and snow-melt runoff events. The standards have been adapted from the State of Minnesota's Storm-Water Advisory Group's "Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impact of Urban Storm-Water and Snow-Melt Runoff on Wetlands." Scientific or natural areas and bogs shall be governed by the Exceptional Quality Wetland Standards stated below.

Wetland Standards

Hydro-Period Standard

Exceptional Quality Wetlands

High Quality Wetlands

Moderate Quality Wetlands

Low Quality Wetlands

Wetland Standards

Hydro-Period Standard

Exceptional Quality Wetlands

High Quality Wetlands

Moderate Quality Wetlands

Low Quality Wetlands

Storm Bounce

Existing

Existing plus 0.5 feet

Existing plus 1.0 feet

No limit

Discharge Rate

Existing

Existing

Existing or less

Existing or less

Inundation Period for 1 & 2 year precipitation event

Existing

Existing plus 1 day

Existing plus 2 days

Existing plus 7 days

Inundation Period for 10 year precipitation event & greater

Existing

Existing plus 7 days

Existing plus 14 days

Existing plus 21 days

Run-out control elevation (free flowing)

No change

No change

0 to 1.0 feet above existing run-out

0 to 4.0 feet above existing run-out

Run-out control elevation (land locked)

Above delineated wetland

Above delineated wetland

Above delineated wetland

Above delineated wetland

(D) Where a wetland buffer strip is required, the applicant shall:

(1) Before the city releases the final plat or, if there is no plat approval involved, the first building permit for the entire subject property, submit to the Zoning Administrator and receive the Zoning Administrator's approval of a conservation easement for protection of the wetland and approved wetland buffer strip. The easement must describe the boundaries of the wetland and wetland buffer strips, monuments and monument locations and prohibit any structures, paving, mowing, and introduction of non-native vegetation, cutting, filling, dumping, yard waste disposal, fertilizer application or removal of the wetland buffer strip monuments within the wetland buffer strip or the wetland.

(2) Before the city releases the first building permit for the entire subject property:

(a) Submit evidence to the Zoning Administrator that the approved easement document has been recorded in the Wright County Recorder's/Registrar of Titles' Office;

(b) Submit a duplicate original of the easement document executed and acknowledged and otherwise in form and substance acceptable for filing with the Wright County Recorder/Registrar of Titles Office; and

(c) Install the wetland monumentation required by § 155.345 of this subchapter.

(E) All yards shall be sodded or seeded and mulched. All open areas within the wetland and/or wetland buffer strip shall be seeded and/or planted in accordance with § 155.346(C). All sodding, seeding or planting

must be completed prior to removal of any erosion control. If construction is completed after the end of the growing season, erosion control shall be left in place and all disturbed areas shall be mulched to protect these areas over the winter season. Variances for sod outside of the wetland buffer strip areas, in accordance with § 155.442 (Appeals and Variances), shall be considered on a case by case basis.

(Ord. 0408, passed 12-14-04)

§ 155.344 WETLAND BUFFER STRIPS AND SETBACKS.

(A) For a Lot of Record or a Development Application approved by the City Council after December 12, 2004, the applicant shall maintain a wetland buffer strip around the perimeter of all delineated wetlands which are constructed as part of a Wetland Mitigation Plan or Public Value Credit as part of an approved Wetland Mitigation Plan. For lots of record as of December 12, 2004, or for Development Applications for which site plans, preliminary plats, final plats or planned unit development plans have been approved by the St. Michael Planning and Zoning Commission or City Council prior to this date, setback and wetland buffer strips shall be ten feet, although, the city strongly encourages the use of larger wetland buffer strips and setbacks on all lots in the city.

(B) Wetland buffer strips and structure setbacks shall apply regardless of whether or not the wetland or storm water pond is on the same parcel as a proposed Development Application. For parcels in which the wetland is on an adjacent parcel, the setback and wetland buffer strip requirements for the parcel shall be reduced by the distance between the property line of the parcel and the wetland on the adjacent parcel. This provision in no way reduces or eliminates any other setbacks required by the city code or any other law or regulation.

(C) The applicant shall establish and maintain wetland and wetland buffer strip vegetation in accordance with the requirements found in § 155.346. Wetland buffer strips shall be identified within each lot by permanent monumentation approved by the City Engineer in accordance with § 155.345.

(D) Alterations, including but not limited to building, paving, mowing, introduction of non-native vegetation, cutting, filling, dumping, yard waste disposal or fertilizer application, are prohibited within the wetland and wetland buffer strip. However, non-native vegetation, such as European buckthorn, purple loosestrife and reed canary grass, or dead or diseased trees that pose a hazard may be removed as long as a Vegetation Management Plan is submitted to the city for review and written approval. The Vegetation Management Plan must maintain the wetland and wetland

buffer strip standards found in § 155.344 or as required by the Zoning Administrator or his or her designee. The Vegetation Management Plan form must be obtained from the city. Alterations do not include native plantings that enhance the native vegetation, unless within a conservation easement, in which case submittal and approval of a Vegetation Management Plan from the city is required.

(E) For roadways or other structures where the city determines that there is no practical alternative except to be aligned either adjacent to or across wetlands, additional wetland filling to create a wetland buffer strip shall not be required. Trails that are intended to serve an interpretive function are also exempted from the wetland buffer strip requirement. All other areas and structures, including roadways, shall meet the setbacks and wetland buffer strip standards established in Table 1 below. The city may recommend averaging of a wetland buffer area, provided the minimum width is not less than ten feet and the total area contained within the buffer remains the same.

(F) An existing structure, driveway or parking area would be considered a legal nonconforming structure if a later WCA delineation shows that the wetland is closer than the required setback.

Table 1 - Wetland Buffer Strips and Setbacks

Exceptional

High

Moderate

Low

Wetland Buffer Strip (Minimum Width) of Vegetation

20'

20'

10'

10'

Structure Setback (from Wetland Buffer Strip)

Princ. - 30'

Deck - 15'

Princ. - 30'

Deck - 15'

Princ. - 30'

Deck - 15'

Princ. - 30'

Deck - 15'

Total Minimum Distance from Wetland

Princ. - 50'

Deck - 35'

Princ. - 50'

Deck - 35'

Princ. - 40'

Deck - 25'

Princ. - 40'

Deck - 25'

Lots of Record prior to December 12, 2004

10'

Note: The wetland buffer strip width for storm water pond's utilized as mitigation credit shall be measured from the Ordinary High Water Level (OHWL) of the pond. Structures and decks on lots platted prior to December 14, 2004 shall be allowed a minimum setback of ten feet from the wetland edge.

(Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1704, passed 10-24-17)

§ 155.345 MONUMENTATION.

A monument is required at each lot line where it crosses a wetland buffer strip and shall have a maximum spacing of 200 feet along the edge of the wetland buffer strip. Additional posts shall be placed as necessary to accurately define the edge of the wetland buffer strip. If no wetland buffer

strip is required, monuments shall be placed at the wetland boundary. The monument shall consist of a post and a wetland buffer strip sign. The post shall be of a material approved by the City Engineer, such as a fiberglass reinforced composite post with a maximum sign size of 12 inches by 12 inches. The sign shall be mounted flush with the top of the post and shall state "Wetland Buffer: No Mowing Allowed". The post shall be mounted to a height of a minimum of four feet above grade set at least 42 inches in the ground. The bottom of the post must be fitted with an anchor attachment that would expand upon attempted removal. Monuments may be waived in unusual circumstances where the city determines that such signs would not serve a practical purpose.

(Ord. 0408, passed 12-14-04)

§ 155.346 VEGETATION STANDARDS.

(A) Where acceptable natural vegetation exists in wetland and wetland buffer strip areas, the retention of such vegetation in an undisturbed state is required unless an applicant receives approval to replace such vegetation. A wetland and/or wetland buffer strip has acceptable natural vegetation if it:

(1) Has a continuous, dense layer of perennial grasses that have been uncultivated or unbroken for at least five consecutive years;

(2) Has an overstory of trees and/or shrubs with at least 80% canopy closure that have been uncultivated or unbroken for at least five consecutive years; or

(3) Contains a mixture of the plant communities described in (1) and (2) above that have been uncultivated or unbroken for at least five consecutive years.

(B) Notwithstanding the vegetation standards set forth above in § 155.346(A), the Zoning Administrator may determine existing wetland and/or wetland buffer strip vegetation to be unacceptable if:

(C) Where wetlands and/or wetland buffer strips, or a portion thereof, are not vegetated or have been cultivated or otherwise disturbed within five years of the permit application, such areas shall be re-planted and maintained. The wetland and wetland buffer strip plantings must be identified on the development application. The wetland and wetland buffer strip landscaping shall be according to each of the following standards:

(1) Prior to planting and seeding, wetland mitigation and buffer areas must be treated to control weed growth with a herbicide that breaks down sufficiently within 14 days prior to seeding;

(2) Planted with a seed mix containing 100% perennial native vegetation, except for a one-time planting of an annual nurse or cover crop such as oats or rye;

(3) Seed mix used shall be broadcast at a minimum rate of 30 pounds per acre. The annual nurse or cover crop to be used shall be applied at a minimum rate of 20 pounds per acre. The seed mix shall consist of at least 12 pounds pure live seed (PLS) per acre of native prairie grass seed and three pounds PLS per acre of native forbs. Native prairie grass and native forb mixes shall contain no fewer than five native prairie grasses and 15 native forb species. The Minnesota Department of Transportation Mix for prairie sedge and prairie meadow areas, Mixture 25A Modified (25B or 26B) or other alternative pre-approved by the Zoning Administrator can be used to meet these requirements. Applicants may obtain from the city a set of Native Wetland & Buffer Area Seeding Guidelines for wetland buffer strips that meet city requirements.

(4) All new wetland mitigation sites must be seeded appropriately with a native seed mix and planted with a variety of wetland species at a minimum of 1,000 plugs per acre;

(5) Native shrubs may be substituted for native forbs. All substitutions must be pre-approved by the Zoning Administrator. Such shrubs may be bare root seedlings and shall be planted at a minimum rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.

(6) Any groundcover or shrub plantings installed within the wetland buffer strip are independent of landscaping required elsewhere by city code.

(7) Native prairie grasses and forbs shall be seeded or planted by a qualified contractor. The method of application and determination of the contractor qualifications shall be made by the Zoning Administrator. It is the responsibility of the applicant to have the contractor and method used approved by the Zoning Administrator prior to planting or seeding.

(8) No fertilizer shall be used in establishing new wetland buffer strips, except on highly disturbed sites when deemed necessary to establish acceptable wetland and/or wetland buffer strip vegetation and then limited to amounts indicated by an accredited soil testing laboratory; determination of proper accreditation shall be made by the Zoning Administrator.

(9) All seeded areas shall be mulched immediately with clean straw at a rate of 1.5 tons per acre. Mulch shall be anchored with a disk or tackifier.

(10) Wetland and wetland buffer strips (both natural and created), shall be protected by erosion control during construction in accordance with § 154.087 of this code.

(11) The erosion control shall remain in place until the area vegetation is established.

(Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08)

§ 155.347 PERFORMANCE BOND REQUIRED.

If a Development Application includes wetland alteration, wetland or wetland buffer strip landscaping or construction of a wetland buffer strip the applicant must file with the Zoning Administrator or his or her designee prior to release of the final plat, or, if there is no plat approval involved, prior to the first building permit for the entire subject property, a performance bond, cash escrow or letter of credit with a corporation approved by the Zoning Administrator, as surety thereon, or other guarantee acceptable to the Zoning Administrator and in an amount determined by the Zoning Administrator as set forth below:

(A) Amount. The amount of the bond shall be for no less than 125% of the amount estimated by the City Engineer as the cost of completing a Wetland Plan for restoration and/or correction of the wetland and/or wetland buffer strip. The performance bond must cover two complete growing seasons following completion of the development and must be conditioned upon complete and satisfactory implementation of the approved Wetland Buffer Strip Landscape Plan or Vegetation Management Plan and final inspection, and written approval, of the wetland buffer strip by the city.

(B) Submittals. The applicant shall provide one copy of a signed contract with an environmental consultant to monitor annual compliance and certify final completion of the wetland buffer strip requirements after the end of the second full growing season after completion of the development.

(C) Form of Application. The performance bond, cash escrow, letter of credit or other guarantee acceptable shall be submitted to the city prior to execution of the Development Agreement and prior to the commencement of the development or the preparations thereof.

(Ord. 0408, passed 12-14-04)

FLOODPLAIN OVERLAY DISTRICT

§ 155.365 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

(A) Statutory authorization. The Legislature of the State of Minnesota has, in M.S. Chapter 104 and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore the City Council does ordain as follows.

(B) Findings of fact.

(1) The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) This subchapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(C) Purpose. It is the purpose of this subchapter to promote the public health, safety, and general welfare and to minimize those losses described in division (B)(1) above by provisions contained herein.

(D) Policy. The city prohibits filling activities within the 100-year floodplain that will cause an increase in the stage of the 100-year or regional flood or cause an increase in the flood damages in the reach affected.

(Ord. 73, passed 7-24-90; Am. Ord. 0802, passed 3-11-08)

§ 155.366 APPLICABILITY OF PROVISIONS.

This subchapter shall apply to all lands within the jurisdiction of the city shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

(Ord. 73, passed 7-24-90)

§ 155.367 MAP.

(A) The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this subchapter. The attached material shall include the Flood Insurance Study for St. Michael, Minnesota, and Wright County, Minnesota, prepared by the Federal Insurance Administration as found on the following Flood Insurance Rate Maps:

(1) Community Panel Number 270534-0001C, Map Revised: July 2, 1982 (St. Michael);

(2) Community Panel Number 270534-0033B, Map Revised: August 4, 1988 (Wright Cty.);

(3) Community Panel Number 270534-0031C, Map Revised: August 18, 1992 (Wright Cty.);

(4) Community Panel Number 270534-0003-0044, Map Revised: August 18, 1992 (Wright Cty.);

(5) Community Panel Number 270534-0032C, Effective Date: August 18, 1992 (Wright Cty.).

(B) The Official Zoning Map shall be on file in the office of the City Administrator.

(Ord. 73, passed 7-24-90; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0802, passed 3-11-08)

§ 155.368 REGULATORY FLOOD PROTECTION ELEVATION.

The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(Ord. 73, passed 7-24-90)

§ 155.369 INTERPRETATION.

(A) In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(B) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a

reasonable opportunity to present their case to the Board and to submit technical evidence.

(Ord. 73, passed 7-24-90)

§ 155.370 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other ordinances or code provisions inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only.

(Ord. 73, passed 7-24-90)

§ 155.371 WARNING AND DISCLAIMER OF LIABILITY.

This subchapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This subchapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made thereunder.

(Ord. 73, passed 7-24-90)

§ 155.372 ESTABLISHMENT OF ZONING DISTRICTS.

(A) Districts.

(1) Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in § 155.367.

(2) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in § 155.367.

(B) Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 155.373 and 155.374 shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes, and certain travel trailers and travel vehicles are subject to the general provisions of this subchapter.

(2) Modifications, additions, structural alterations, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this subchapter and specifically § 155.382.

(3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys, and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this subchapter and specifically as stated in § 155.379(F).

(Ord. 73, passed 7-24-90)

§ 155.373 FLOODWAY DISTRICT.

(A) Permitted uses. Permitted uses in the Floodway District shall be as follows:

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, wild crop harvesting;

(2) Industrial-commercial loading areas, parking areas, and airport landing strips;

(3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single- or multiple-purpose recreational trails;

(4) Residential lawns, gardens, parking areas, and play areas.

(B) Standards for Floodway permitted uses. Standards for permitted uses in the Floodway District shall be as follows:

(1) The use shall have a low flood damage potential.

(2) The use shall be permissible in the underlying zoning district if one exists.

(3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

(C) Conditional uses. Conditional uses in the Floodway District shall be as follows:

- (1) Structures accessory to the uses listed in division (A) above;
- (2) Extraction and storage of sand, gravel, and other materials;
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures;
- (4) Railroads, streets, bridges, utility transmission lines, and pipelines;
- (5) Storage yards for equipment, machinery, or materials;
- (6) Placement of fill; and
- (7) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(D) Standards for Floodway conditional uses.

(1) All uses.

(a) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(b) All floodway conditional uses shall be subject to the procedures and standards contained in § 155.381.

(c) The conditional use shall be permissible in the underlying zoning district if one exists.

(2) Fill.

(a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with subdivision (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have

caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title- registered with the property in the office of the County Recorder.

(3) Accessory structures.

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, accessory structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.

2. So far as practicable, accessory structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and, for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate:

1. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.

2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or be properly floodproofed.

(4) Storage of materials and equipment.

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(5) Structural works. Structural works for flood control that will change the course, current, or cross section of protected wetlands or public

waters shall be subject to the provisions of M.S. Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(6) Levees, dikes, and floodwalls. A levee, dike, or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Ord. 73, passed 7-24-90; Am. Ord. 0701, passed 1-9-07)

§ 155.374 FLOOD FRINGE DISTRICT.

(A) Permitted uses. Permitted uses in the Flood Fringe District shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe permitted uses listed in division (B) below and the standards for all Flood Fringe permitted and conditional uses listed in division (E) below.

(B) Standards for Flood Fringe permitted uses. Standards for permitted uses in the Flood Fringe District shall be as follows:

(1) The basement floor elevation will be two feet above the elevation of any known historic high groundwater elevations for the area and two feet above the 100-year high surface water elevation, and Regulatory Flood Protection Elevation, whichever is higher, in the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, etc. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon;

(2) Any new or redevelopment building construction within the city will maintain a minimum building opening elevation three feet above the projected 100-year high water elevation for the area. If this three foot building opening freeboard requirement is considered a hardship, the standard could be lowered to two feet if the following can be demonstrated:

(a) That, within the two-foot freeboard area, storm water storage is available which is equal to or exceeds 50% of the storm water storage currently available in the basin below the 100-year elevation;

(b) That a 25% obstruction of the basin outlet over a 24-hour period would not result in more than one-foot of additional bounce in the basin; and

(c) An adequate overflow route from the basin is available that will provide assurance that one-foot of freeboard will be maintained for the proposed low building opening.

(3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless the fill is specifically intended to elevate a structure in accordance with (B)(1) of this section.

(4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(5) The provisions of division (E) of this section shall apply.

(C) Conditional uses. Any structure that is not elevated on fill or floodproofed in accordance with (B)(1) and (2) or any use of land that does not comply with the standards in (B)(3) and (4) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in divisions (D) and (E) of this section and § 155.381.

(D) Standards for Flood Fringe conditional uses.

(1) Alternative elevation methods. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: the enclosed area is above-grade on at least one side of the structure; it is designed to internally flood and is constructed with flood-resistant materials; and it is used solely for parking of vehicles, building access, or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, as having all electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities at or above the regulatory flood protection elevation or as being designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific standards for above- grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate as follows:

1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

2. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles, or storage.

(2) Basements. Basements, as defined by § 155.009, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry-floodproofed in accordance with division (3) below.

(3) Floodproofing. All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

(4) Fill. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal, or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state-approved shoreland management ordinance or code provision. In the absence of a state-approved shoreland ordinance or code provision, the plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional

engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(5) Storage of materials and equipment.

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(6) Other standards. The provisions of division (E) below shall also apply.

(E) Standards for all Flood Fringe uses.

(1) Vehicular access. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(2) Commercial uses. Accessory land uses such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in (2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(4) Fill. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable methods. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-

year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(5) Flood plain developments. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(6) Travel trailers and travel vehicles. Standards for travel trailers and travel vehicles are contained in .

(7) Manufactured homes. All manufactured homes, as defined in M.S. §§ 327.31 through 327.35, must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Ord. 73, passed 7-24-90; Am. Ord. 0802, passed 3-11-08)

§ 155.375 SUBDIVISIONS.

(A) Review criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this subchapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) Removal of special flood hazard area designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Ord. 73, passed 7-24-90)

§ 155.376 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.

(A) Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be floodproofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.

(B) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with §§ 155.373 and 155.374. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) On-site sewage treatment and water supply systems. On-site sewage disposal systems are regulated by § 155.053 of this code.

(Ord. 73, passed 7-24-90)

§ 155.377 RESERVED.

§ 155.378 ZONING ADMINISTRATOR.

A Zoning Administrator designated by the governing body shall administer and enforce this subchapter. If the Zoning Administrator finds a violation of the provisions of this subchapter, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 155.384.

(Ord. 73, passed 7-24-90)

§ 155.379 PERMITS.

(A) Permit required. A permit issued by the Zoning Administrator in conformity with the provisions of this subchapter shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the

placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(B) Application for permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(C) State and federal permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(D) Certificate of zoning compliance for a new, altered, or nonconforming use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this subchapter.

(E) Construction and use to be as provided on applications, plans, permits, variances, and certificates of zoning compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this subchapter, and punishable as provided by § 155.384.

(F) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this subchapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

(G) Record of first floor elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(Ord. 73, passed 7-24-90)

§ 155.380 GRANTING OF VARIANCES; ADMINISTRATIVE REVIEW.

The granting of variances and the administrative review of decisions made by the Zoning Administrator shall be as provided in § 155.440.

§ 155.381 CONDITIONAL USES.

The granting of conditional use permits shall be as provided in § 155.440.

§ 155.382 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this subchapter but which is not in conformity with the provisions of this subchapter may be continued subject to the following conditions:

(A) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(B) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in (C) below.

(C) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of § 155.373 or § § 155.374 for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

(D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this subchapter.

The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

(E) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this subchapter. The applicable provisions for establishing new uses or new structures in § 155.373 or § 155.374 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

(Ord. 73, passed 7-24-90)

§ 155.383 AMENDMENTS.

(A) The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) All amendments to this subchapter, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this subchapter and the notice shall include a draft of the subchapter amendment or technical study under consideration.

(Ord. 73, passed 7-24-90)

§ 155.384 VIOLATIONS AND PENALTY.

(A) Nothing herein contained shall prevent the city from taking lawful action other than as provided in division (B) below as is necessary to prevent or remedy any violation. Such actions may include but are not limited to the following:

(1) In responding to a suspected subchapter violation, the Zoning Administrator and the local government may utilize the full array of enforcement actions available to them including, but not limited to,

prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures, or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct subchapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When an subchapter violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this subchapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this subchapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this subchapter.

(B) Violation of the provisions of this subchapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as provided in § 10.99.

(Ord. 73, passed 7-24-90)

S, SHORELAND OVERLAY DISTRICT

§ 155.405 PURPOSE.

(A) Statutory authorization. This Shoreland subchapter is adopted pursuant to the authorization and policies contained in M.S. Chapter 105, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462.

(B) Policy. The uncontrolled use of the shorelands of the city affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety, and welfare to provide for the wise subdivision, use, and development of shorelands of public waters. The State Legislature has delegated responsibility to local governments of the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.

(C) Jurisdiction. The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in this chapter. Pursuant to Minnesota Regulations, Parts 6120.2500-612.3900, no lake, pond, or flowage less than ten acres in size in municipalities, or 25 acres in size in unincorporated areas, need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

Cross-reference:

Flood damage prevention, see Ch. 152

§ 155.406 APPLICABILITY OF PROVISIONS.

The S, Shoreland Overlay District shall be applied to and superimposed (overlaid) upon all zoning districts as contained herein as existing or amended by the text and map of this chapter. The regulations and requirements imposed by the S District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

§ 155.407 BOUNDARIES.

The boundaries of the Shoreland District are established within the following distances from the ordinary high water level of the surface water depending on the size of the surface water indicated on the St. Michael Zoning Map.

Surface Water	Distance (feet)
Greater than 10 acres	1,000
Rivers and streams (draining an area greater than two square miles)	300*

* The distance requirement shall be increased to the limit of the floodplain when greater than 300 feet.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

§ 155.408 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.

(A) Shoreland classification system. The public waters of the city have been classified below consistent with the criteria found in Minnesota Rules, Part 6120.2500, Subp. 13, and the Protected Waters Inventory Map for Wright County, Minnesota. Other surface waters affected by this chapter, generally having less than ten acres, are classified as wetland systems and thus are regulated under the provisions of § 155.340 of this code.

(B) The surface waters affected by this section and which require controlled development of their shoreland (Shoreland District) are identified below and include any and all navigable inlets, channels, bays and waterways, whether naturally created or manmade, sharing the water of a body of water identified below.

(1) Certain water bodies. The shoreland area for the water bodies listed in this section shall be as defined in subdivision (2) and as shown on the Official Zoning Map.

(2) Lakes.

(a) Natural environment lakes:

Protected Waters	Inventory ID
Foster	86-1

Unnamed	86-16W
Unnamed	86-18
Gonz	86-19
Uhl	86-17
Wagner	86-10
Mud	86-21
Steele	86-22
Moore	86-28
Schmidts	86-29
School	86-15P
Pelican	86-31

(b) Recreational development lakes:

Protected Waters	Inventory ID
Wilhelm	86-20
Beebe	86-23

(c) General development lakes:

Protected Waters	Inventory ID
Charlotte	86-11

(3) Rivers and streams are as follows:

(a) Agricultural rivers:

Protected Waters
Crow River

(b) Tributary streams:

Protected Waters
Unnamed*

(c) Ditches:

Protected Waters
Unnamed

*All protected watercourses in the city shown on the Protected Waters Inventory Map for Wright County, a copy of which is hereby adopted by reference, not given a classification shall be considered "tributary."

(C) Land use district descriptions.

(1) Land use districts. The city's Official Comprehensive Land Use Plan Map and Zoning Map delineate allowable land uses. The land use districts within the Shoreland Overlay District consist of the base districts identified in this chapter. All land uses allowed as permitted, accessory, or conditional uses within the base district are allowed within the Shoreland Overlay District, provided all standards of the base district and the shoreland district are met.

(2) Criteria for designation. The land use districts in this section and the delineation of a land use district's boundaries on the Official Zoning Map must be consistent with the goals, policies, and objectives of the Comprehensive Land Use Plan and the following criteria, considerations, and objectives:

(a) General criteria. General considerations and criteria for all land uses shall be:

1. Preservation of natural areas;
2. Present ownership and development of shoreland areas;
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;
10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

(b) Planned unit developments. Standards found in this section may vary using the PUD process (PUD Zoning Ordinance). Factors and criteria for planned unit developments shall be:

1. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
2. Physical and aesthetic impacts of increased density;
3. Suitability of lands for the planned unit development approach;
4. The level of current development in the area; and
5. The amounts and types of ownership of undeveloped lands.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

§ 155.409 LOT REQUIREMENTS AND SETBACKS.

(A) Lot area and width standards. The lot area, lot width, and structure setback standards for residential lots created after the date of enactment of this chapter for the lake and river/stream classifications are as found below.

- (1) Lakes/rivers.

Lots Abutting Public Water (Riparian Lots)

Lots Not Abutting Public Waters (Non-Riparian Lots)

Class

Width (feet)

Area (feet)

Septic System Setback from OHWL (feet)

Structure Setback from OHWL (feet) Unsewered/ Sewered

Width (feet)

Area (feet)

Structure Setback from OHWL (feet)

Natural Environment

200

43560

150

150

150

150

30000

150

Recreational Development

150

43560

75

100

75

100

30000

100

General Development

150

43560

50

75

50

100

30000

75

River/Stream

150

43560

75

100

75

100

20000

100

Ditches

See underlying zoning

75 ft. from top of ditch bank

See underlying zoning

75 ft. from top of ditch bank

OHWL = Ordinary High Water Level

(2) Additional special provisions. Residential subdivisions with dwelling unit densities exceeding those in the tables in this section can only be allowed if designed and approved as residential planned unit developments under this section of this chapter. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

(B) Placement and setbacks. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

(1) One water-oriented accessory structure designed in accordance with this section may be set back a minimum distance of ten feet from the ordinary high water level.

(2) The following additional structure setbacks apply, regardless of classification of the water body:

Setback from:	Setback (in feet)
Top of bluff	30
Unplatted cemetery	50
Center line of federal, state, or county highway	100
Center line of town road, public street, or other roads or streets not classified	65

(minimum 30-foot setback from R-O-W or road easement)

(3) Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(4) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(5) Where decks or principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided:

(a) The proposed building site is not located in a shore impact zone or in a bluff impact zone.

(b) Principal structure setback is based on the adjacent principal structure.

(c) Deck setbacks are based on the adjacent deck, if any, or principal structure, if no deck exists.

(Ord. 110, passed 11-15-97; Am. Ord. 0204, passed 8-13-02; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1704, passed 10-24-17) Penalty, see § 155.999

§ 155.410 BUILDING REQUIREMENTS.

(A) High water elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:

(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

(2) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish a

flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest floor protection elevation determined must be used for placing structures and other facilities; and

(3) Water-oriented accessory structures, they may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(B) Water-oriented accessory structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in this section of this chapter if this water-oriented accessory structure complies with the following provisions:

(1) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

(2) The setback of the structure or facility from the ordinary high water level must be at least ten feet;

(3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions;

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

(6) As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet, provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(C) Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(3) Canopies or roofs are not allowed on stairways, lifts, or landings;

(4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

(5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, whenever practical; and

(6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of (1) through (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

(D) Significant historic sites. No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

(E) Steep slopes. The City Engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(F) Height of structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

§ 155.411 SUBDIVISION/PLATTING PROVISIONS.

All subdivisions and platting within the Shoreland Overlay District must conform to the provisions and procedures outlined for the Shoreland District, the base district, and the City Subdivision Ordinance.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

Cross-reference:

Subdivisions, see Ch. 154

§ 155.412 PLANNED UNIT DEVELOPMENT.

All requests for planned unit development conditional use permits within the Shoreland Overlay District shall be processed in accordance with the provisions of §§ 155.465 et seq.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

§ 155.413 ADMINISTRATION; PERMITS; VARIANCES.

(A) Permits required.

(1) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by this section of this subchapter. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by this section, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(3) A permit is required if more than 50 cubic yards of soil is disturbed according to § 155.085.

(B) Certificate of zoning compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this section of this subchapter. This certificate will specify that the use of land conforms to the requirements of this subchapter. Any use, arrangement, or construction at variance with that authorized by

permit shall be deemed a violation of this chapter and shall be punishable as provided in § 155.999.

(C) Variances. Variances may only be granted in accordance with § 155.442.

(D) Notifications to the Department of Natural Resources.

(1) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider a proposed subdivisions/plat must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls, must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

§ 155.414 CONDITIONAL USES.

Conditional uses allowed within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in § 155.440. The following additional evaluation criteria and conditions apply within shoreland areas:

(A) Evaluation criteria. A thorough evaluation of the water body and the topographic, vegetation, and soil conditions on the site must be made to ensure:

(1) There shall be prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) The visibility of structures and other facilities as viewed from public waters is limited;

(3) The site is adequate for water supply and on-site sewage treatment; and

(4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(B) Conditions attached to conditional use permits. The City Council, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- (1) Increased setbacks from the ordinary high water level;
- (2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- (3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04)

§ 155.415 NONCONFORMITIES.

All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use, except that the following standards will also apply in shoreland areas:

(A) Construction on nonconforming lots of record.

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of this section may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, the lot was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this section the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this section as much as possible.

(B) Additions/expansions to nonconforming structures.

(1) General provisions. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this section of this chapter. Any deviation from these requirements must be authorized by a variance pursuant to this section.

(2) Deck additions. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

(a) The structure existed on the date the structure setbacks were established (November, 1991);

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(c) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive;

(d) The deck is constructed primarily of wood, and is not roofed or screened;

(3) Nonconforming sewage treatment systems.

(a) A sewage treatment system not meeting the requirements of this section must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(b) The City Council has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. The City Council will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 105.485 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 (Minnesota Rules Chapter 7080) for design of on-site sewage treatment systems, shall be considered nonconforming.

(C) Reduction of side yard setback for substandard lots. Side yard setback requirements may be reduced to 20% of the lot width in such cases where the lot width is less than 90 feet. In no case shall the side yard setback be less than five feet from the property line.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08) Penalty, see § 155.999

§ 155.416 LAND AND VEGETATION ALTERATION.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(A) Vegetation alterations.

(1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this section of this chapter are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this section, is allowed subject to the following standards:

(a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2. Along rivers, existing shading of water surfaces is preserved;
and

3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(B) Topographic alterations; grading and filling.

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Public roads and parking areas are regulated by this section.

(3) Notwithstanding (1) and (2) above, a grading and filling permit will be required for:

(a) The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and

(b) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:

(a) Grading and filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect, according to the Wetland Ordinance, the following functional qualities of the wetland. (This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.)

1. Sediment and pollutant trapping and retention;
2. Storage of surface runoff to prevent or reduce flood damage;
3. Fish and wildlife habitat;
4. Recreational use;
5. Shoreline or bank stabilization; and

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(b) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(c) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation district and the United States Soil Conservation Service.

(f) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(g) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater.

(h) Fill or excavated material must not be placed in bluff impact zones.

(i) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 105.42.

(j) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(k) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one-foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(C) Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

§ 155.417 STREETS, DRIVEWAYS, AND PARKING.

(A) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(B) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(C) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subchapter are met. For private facilities, the grading and filling provisions of this section must be met.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

§ 155.418 STORM WATER MANAGEMENT.

In addition to Chapter 152, Surface Water Management, of this code, the following general and specific standards shall apply:

(A) General standards.

(1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(B) Specific standards.

(1) Impervious surface coverage of lots must not exceed 25% of the lot area, except as follows: lots less than 11,250 square feet may have impervious surface coverage of not more than the lesser of 2,812 square feet or 35% of the lot area if the Zoning Administrator determines that stormwater management practices mitigate for the increased impervious surface coverage.

(2) Impervious surface coverage of commercial and industrial lots must meet requirements of the applicable underlying zoning district.

(3) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(4) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 1401, passed 1-28-14) Penalty, see § 155.999

§ 155.419 USE STANDARDS.

(A) Commercial, industrial, public, and semipublic use standards.

(1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(a) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures, where appropriate.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety

messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) Agriculture use standards.

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(2) Animal feedlots must meet the following standards:

(a) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

(b) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroachment on bluff impact zones.

(C) Forest management standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management “

(D) Extractive use standards.

(1) Site development and restoration plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) Setbacks for processing machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(E) Mining of metallic minerals and peat. Mining of metallic minerals and peat, as defined in M.S. §§ 93.44 through 93.51, shall be a permitted use provided the provisions of M.S. §§ 93.44 through 93.51 are satisfied.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04) Penalty, see § 155.999

§ 155.420 WATER; SEWAGE.

(A) Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. All properties requesting a subdivision, new construction, living area expansion or properties whose private supply of water needs to be replaced, shall be required to connect to city public water, if available, within six months of the issuance of a building permit.

(B) Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment. All shoreland properties requesting a subdivision, new construction, living area expansion or properties whose private treatment system needs to be replaced, shall be required to hook-up to the city's central sewer, if reasonably available. Private sewage treatment shall be as follows:

(1) All private sewage treatment systems must meet or exceed the standards outlined by § 155.020 et seq.

(2) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in § 155.020 et seq.

(3) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with § 155.020 et seq.

(Ord. 110, passed 11-15-97; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0703, passed 7-10-07) Penalty, see § 155.999

ADMINISTRATION

§ 155.440 AMENDMENTS AND CONDITIONAL USE PERMITS.

(A) Procedure.

(1) Application; fee. Requests for amendments or conditional use permits, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by City Council resolution. This fee shall not be refunded. Such application shall also be accompanied by four oversized copies and one 11X17 inch copy (unless otherwise directed by the Zoning Administrator) of detailed written and graphic materials fully explaining the proposed change, development, or use. An application will not be accepted until all required materials have been submitted.

(2) Staff review/technical assistance reports. Upon receipt of an application for an amendment or conditional use permit, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

(3) Public hearing. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten working days from such date as a notice of the hearing is published in the official newspaper. Such notice shall contain a legal property description and description of the request, and shall be published no more than 30 days and no less than ten days prior to the hearing. Written notification of the hearing shall also be mailed at least ten working days prior to the date of

the hearing to all owners of land within 350 feet of the boundary of the property in question for conditional use permits and 350 feet for amendments. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter.

(4) Planning Commission action. The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

(a) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan;

2. The proposed use is or will be compatible with present and future land uses of the area;

3. The proposed use conforms with all performance standards contained herein;

4. The proposed use will not tend to or actually depreciate the area in which it is proposed;

5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

(b) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(c) The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the chapter. Such recommendation shall be in writing and accompanied by any report and recommendation of the city staff. The written recommendation of the Planning Commission shall be forwarded to the Zoning Administrator for referral to the City Council within 60 days of the opening of the public hearing.

(5) Referral to City Council. Upon receipt of the Planning Commission report and recommendation, or within 60 days of the opening of the public hearing by the Planning Commission, the Zoning Administrator shall place

the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council.

(6) City Council action. Upon receiving the request and any report and recommendations of the Planning Commission and the city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make recorded findings of fact.

(a) The City Council may adopt and amend a zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of the City Council.

(b) In the case of a conditional use permit, the Council may impose any condition it considers necessary to protect the public health, safety, and welfare.

(c) In the case of an amendment, the amendment shall not become effective until such time as the City Council approves an ordinance or code provision reflecting the amendment and after the ordinance or code provision is published in the official newspaper.

(d) Whenever an application for an amendment or conditional use permit has been considered and denied by the City Council, a similar application for the amendment or conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.

(B) Conditions.

(1) In reviewing applications for conditional use permits, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district, and to achieve the goals and objectives of the Comprehensive Plan. Such conditions may include, but are not limited to, the following:

(a) Controlling the number, area, bulk, height, and location of such uses;

(b) Regulating ingress and egress to the property and the proposed structures thereon with particular reference to vehicle and pedestrian

safety and convenience, traffic flow and control, and access in case of fire or other catastrophe;

- (c) Regulating off-street parking and loading areas where required;
- (d) Regulating utilities with reference to location availability and compatibility;
- (e) Requiring berming, fencing, screening, landscaping, or other means to protect nearby property;
- (f) Requiring compatibility of appearance;
- (g) Meeting the intent of other city zoning ordinances or code provisions.

(2) In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic, and other negative characteristics associated with such uses.

(C) Amendment initiation. The City Council or Planning Commission may, upon their own motion initiate a request to amend the text or the district boundaries of this chapter. Any person, owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate.

(D) Conditional use permit.

(1) Purpose. The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises or on any adjoining roads, and all other or future factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare and public health and safety.

(2) Information requirement. The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the city:

(a) Site development plan. A site development plan, which shall include:

1. The location of all buildings on lots, including both existing and proposed structures;

2. The location of all adjacent buildings located within 200 feet of the exterior boundaries of the property in question;

3. The location and number of existing and proposed parking spaces;

4. Vehicular circulation;

5. Architectural elevations (type and materials used in all external surfaces);

6. The location and candle power of all luminaries;

7. Curb cuts, driveways, and number of parking spaces.

(b) Dimension plan. A dimension plan, which shall include:

1. Lot dimensions and area;

2. Dimensions of proposed and existing structures;

3. A “typical” floor plan and a “typical” room plan;

4. Setbacks of all buildings located on the property in question;

5. Proposed setbacks;

6. A sanitary sewer and water plan with estimated use per day.

(c) Grading plan. A grading plan, which shall include:

1. Existing contours;

2. Proposed grading elevations;

3. Drainage configurations;

4. Storm sewer catch basins and invert elevations;

5. Spot elevations;

6. A proposed road profile.

(d) Landscape plan. A landscape plan, which shall include:

1. The location of all existing trees, their type and diameter, and which trees will be removed;

2. The location, type, and diameter of all proposed plantings;

3. The location of and material used for all screening devices.

(e) A legal description of the property under consideration.

(f) Proof of ownership of the land for which a conditional use permit is requested.

(3) Lapse of conditional use permit by non-use.

(a) Whenever within one year after granting a conditional use permit the use as permitted by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(b) All unused conditional use permits that were approved prior to the effective date of this chapter shall be utilized within one year of the effective date of this chapter amendment, otherwise said permit shall become null and void, unless a petition for an extension of time in which to complete or utilize the permit has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the conditional use permit. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation to the City Council.

(4) Security.

(a) Except in the case of non-income-producing residential property, upon approval of a conditional use permit the city shall be provided with a letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances and code provisions of the city.

(b) The security shall be in the amount of 1½ times the City Engineer's or a certified appraiser's estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages upon the discretion of the City Engineer and Building Official.

(c) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating

compliance with the conditional use permit and ordinances and code provisions of the city has been issued by the City Building Official.

(d) Failure to comply with the conditional use permit or the ordinances or code provisions of the city shall result in forfeiture of the security.

(Ord. 110, passed 11-15-97; Am. Ord. 0405, passed 5-11-04; Am. Ord. 1003, passed 6-8-10)

§ 155.441 INTERIM USE PERMITS.

(A) Purpose. The purpose and intent of allowing interim uses is: to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

(B) Application, public hearing, notice, and procedure. The application, public hearing, public notice, and procedure requirements for an interim use permit shall be the same as those for a conditional use permit as provided in this chapter.

(C) Standards. The Planning Commission shall recommend an interim use permit, and the Council shall issue such interim use permit, only if they find that such use at the proposed location:

(1) Meets the standards of a conditional use permit set forth in § 155.440;

(2) Will terminate upon a date or event that can be identified with certainty;

(3) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future; and,

(4) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(D) Termination. An interim use permit shall terminate upon the occurrence of any of the following events, whichever first occurs:

(1) The date stated in the permit;

(2) A violation of conditions under which the permit was issued;

(3) The occurrence of an event outlined in the permit that terminates the interim use; or

(4) The discontinuance of the use for a minimum of six months.

(Ord. 110, passed 11-15-97)

§ 155.442 APPEALS AND VARIANCES.

(A) Purpose. The Planning Commission shall be the Board of Adjustments and Appeals as provided for by M.S. § 462.354, Subd. 2, and shall have the power and authority to grant variances from any official control including restrictions placed on nonconformities and to impose such conditions in the granting of variances which are directly related to and bear a rough proportionality to the impact created by the variance. The purpose of this section is to provide for:

(1) An appeal process where it is alleged that there is an error in any order, requirement, decision, or determination by an administrative officer or in the enforcement of this chapter; and

(2) A variance from the literal provisions of this chapter in instances where, it is established by the applicant that a non-economic, practical difficulty in the reasonable use of a specific parcel of property exists and the requirements of this section have been met.

(B) Procedure.

(1) Applications generally; fee. Appeals or requests for variances, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. A fee shall be charged for all appeal or variance applications pursuant to a schedule adopted from time to time by resolution of the City Council. The fee shall be paid at the time of submitting the application and shall be non-refundable. The application shall also be accompanied by four oversized copies and one 11 by 17 inch copy (unless otherwise directed by the Zoning Administrator) of detailed written and graphic materials fully explaining the proposed change, development, or use. An application will not be accepted until all required materials and the application fee have been submitted. Application for an appeal or variance shall set forth reasons that the appeal or variance is justified in order to make reasonable use of the land, structure, or building, and that the appeal or variance is the minimum appeal or variance. Information required for all variance applications shall include the following items:

(a) Site development plan. A scalable site development plan, which shall include the information required by § 155.443(B)(l)(a) - (g).

(b) Legal description. A legal description of the property under consideration.

(c) Proof of ownership. Proof of ownership of the land for which a variance is requested.

(2) Staff review/technical assistance reports. Upon receipt of an application for appeal or variance, the Zoning Administrator shall, when the Zoning Administrator deems it necessary, refer the request to appropriate staff to ensure that information requirements are complied with. When all informational requirements have been complied with, and the application fee has been paid, the request shall be considered officially submitted. Also, when the Zoning Administrator deems it necessary, the Zoning Administrator shall instruct the appropriate staff to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission.

(3) Decision. The Planning Commission, serving as the Board of Adjustment and Appeals, shall, after receiving the written report and recommendation of the city staff, make findings of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter, and for variances from the literal provisions of this chapter.

(a) Appeals. An appeal shall be filed not later than 60 days after the applicant has received a written notice from the Zoning Administrator or the appeal shall be considered void. A public hearing shall not be required prior to the Planning Commission's decision on an appeal. Written notice shall be mailed by the Zoning Administrator, or its designee, to the applicant and all landowners abutting the subject property of the proposed appeal, at least ten days before the Planning Commission considers the appeal. The notice shall contain a brief description of the appeal sought, along with notice of the date, time, and place of the Planning Commission meeting wherein the appeal will be considered. Failure of the Zoning Administrator to comply with the notice provisions of this section shall not affect the validity of any subsequent proceedings. The Planning Commission shall render a decision on the appeal within 60 days from the date upon which the application for the appeal was deemed complete, unless extended as permitted by M.S. § 15.99 and any amendments thereto.

(b) Variances.

1. Notice and action. A public hearing shall be required prior to Planning Commission's decision on the issuance of a variance. Written notice shall be mailed by the Zoning Administrator, or its designee, to the applicant and all landowners abutting the subject property of the proposed variance, at least ten days before the Planning Commission considers the

application for the variance. The notice shall contain a brief description of variance sought, along with notice of the date, time, and place of the Planning Commission meeting wherein the variance will be considered. Failure of the Zoning Administrator to comply with the notice provisions of this section shall not affect the validity of any subsequent proceedings. The Planning Commission shall render a decision on the variance application within 60 days from the date upon which the application was deemed complete unless extended as permitted by M.S. § 15.99 and any amendments thereto.

2. Requirements for variance approval.

(i) In considering all requests for a variance, the Planning Commission shall make findings of fact that the proposed action complies with the requirements of M.S. § 462.357 and any amendments thereto, which include but are not limited to:

a. Variances shall only be permitted when they meet the following:

i. They are in harmony with the general purposes and intent of the ordinance, and

ii. The variances are consistent with the Comprehensive Plan.

b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

c. "Practical Difficulties," as used in connection with the granting of a variance, means that:

i. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

ii. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

iii. The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(ii) The Planning Commission may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

(iii) The Planning Commission may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(4) Appeals from Planning Commission decision to the City Council. Appeals from decisions of the Planning Commission acting as the Board of Adjustments and Appeals shall be heard by the City Council as provided for by M.S. § 462.354, before any judicial review under M.S. § 462.361 may be initiated. An application for appeal to the City Council, requesting the Council to reconsider the decision of the Planning Commission, shall be received no later than 30 days after the date the Planning Commission has issued its written findings of fact and decision. A fee shall be charged pursuant to a fee schedule adopted from time to time by resolution of the City Council on all appeal requests. The fee shall accompany the application request by the appellant and shall not be refundable. The City Council shall take action on the appellant's request no later than 45 days after the date upon which the appellant's written request and the application fee has been received by the Zoning Administrator.

(C) Lapse of variance; requests for extension. Whenever within one year after granting a variance the use as permitted by the variance or appeal shall not have been completed or utilized, then such variance shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original variance. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance.

(D) Security. In such cases as a variance or appeal is approved, contingent upon certain conditions imposed by the Council, the Council may require a performance bond to be provided.

(1) Upon approval of a variance or appeal, the city shall be provided with a letter of credit, cash escrow, certificate of deposit, securities, or a cash deposit prior to the issuing of a building permit(s) or initiation of work on the proposed improvement(s) or development. The security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the variance or appeal and the ordinances and code provisions of the city.

(2) The security shall be in the amount of 1½ times the City Engineer's or a certified appraiser's estimated costs of labor and materials for the proposed improvements or development.

(3) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and ordinances and code provisions of the city has been issued by the city's Building Official.

(4) Failure to comply with the conditions of the variance or appeal and the ordinances and code provisions of the city shall result in forfeiture of

the security for action necessary on the part of the city to correct problems or deficiencies.

(E) Property survey. In those cases where a stipulated requirement of this chapter has been modified through the granting of a variance or appeal, a property shall be staked, and a survey prepared by a state registered land surveyor shall be submitted to the city. The survey shall include, but not be limited to, lot dimensions, setbacks, easements, and buildings. The survey shall be a condition of the variance or appeal and shall be submitted prior to the initiation of any improvements on the property in question.

(Ord. 110, passed 11-15-97; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0408, passed 12-14-04; Am. Ord. 0802, passed 3-11-08; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1603, passed 3-8-16)

§ 155.443 SITE PLAN REVIEW AND ENFORCEMENT.

(A) Purpose. The purpose of this section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through officially submitted plan documents.

(B) Plan required. In addition to other plan requirements outlined in the City Code and this chapter, site and construction plans shall be required and shall be submitted to and subject to approval by the Building Official prior to the issuance of any building permit. At a minimum, site and building plans and information requirements shall consist of the following:

(1) Scalable site development plan, which shall include:

(a) Location of all buildings on lots including both existing and proposed structures.

(b) Location of all adjacent buildings located within 200 feet of the exterior boundaries of the property in question.

(c) Location and number of existing and proposed parking spaces.

(d) Curb cuts, driveways and vehicular circulation.

(e) Architectural elevations (type and materials used in all external surfaces).

(f) Location of all illuminaries.

(g) Landscaping plan.

(2) Legal description of property under consideration.

(3) Proof of ownership of the subject site.

(C) Public hearing. A public hearing shall not be required for site plan reviews, except when the proposal changes an existing non-conforming use. The public hearing shall be held by the Planning Commission.

(D) City Council action. All building and site plans for construction, expansion, alteration, or change in the use of multiple family, commercial, or industrial construction or use shall be reviewed by the Planning Commission and approved by the City Council, and the entire site upon which the construction, expansion, alteration, or change in use occurs shall be brought into compliance with all provisions of this chapter.

(E) Plan agreements. All site and construction plans officially submitted to the city shall be treated as a formal agreement between the building contractor and the city. Once approved, no changes, modifications or alterations shall be made to any plan detail, standards, or specifications without prior submission of a plan modification request to the Building Official for review and approval.

(F) Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Building Official.

(G) Minor site plan review.

(1) Purpose. To encourage economic development by expediting the process for small expansions.

(2) Powers. The Zoning Administrator, or another member of the city staff appointed by the Zoning Administrator for such purpose, may:

(a) Review/approve/deny minor site plans for the expansion of a building where the proposed expansion is not more than 20% of the existing main floor footprint of the building, subject to a maximum 10,000 square foot expansion;

(b) Review/approve/deny minor site plans for the expansion of a parking lot where the proposed expansion is not greater than 20% of the square footage of the existing parking lot;

(c) Include in the minor site plan review requirements for such items as dumpsters, landscaping, and building materials;

(d) At the Zoning Administrator's discretion, forward any minor site plan to the Planning Commission for further review.

(3) Standards. Must meet all standards of the Zoning Ordinance. Any proposed expansion to a property subject to an existing Conditional Use Permit (CUP), must comply with the procedures and requirements set forth

in § 155.440 of this subchapter instead of the minor site plan review process set forth in this section.

(4) Appeals. Applicant may appeal the Zoning Administrator's decision to the Planning and Zoning Commission.

(H) Lapse of site plan approval. Site plan approval shall become null and void if within one year after site plan approval by the City Council at least 100% of the site plan has not been completed (as determined by the Building Official, Engineer, and Planner) unless a petition for an extension of time within which to complete the site plan improvements is granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original approved site plan. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the site plan permitted. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(Ord. 110, passed 11-15-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 126, passed - - ; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07)

§ 155.444 CERTIFICATES OF OCCUPANCY.

(A) Required; exception. Except for farm buildings, no building or structure hereafter erected or removed, nor any portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Official stating that the building or structure complies with all of the provisions within this chapter.

(B) Application; fee. The certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance, and shall be issued within ten days after the Building Official shall have found the building or structure satisfactory and given final inspection. The application shall be accompanied by a fee as established by City Council resolution.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.445 NONCONFORMING BUILDINGS, STRUCTURES, AND USES.

(A) Purpose. It is the purpose of this section to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming

buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this section that all nonconforming uses shall be eventually brought into conformity.

(B) Provisions.

(1) Legal nonconformities may be continued, including through repair, replacement, restoration, maintenance, or improvement, but may not be extended, expanded, or changed unless to a conforming use, except as permitted by the Planning Commission subject to the right of appeal to the City Council in accordance with the provisions of § 155.442 of this chapter.

(2) There is a limitation to the continuance rights for nonconformities in National Flood Insurance Program (NFIP) floodplain areas as determined by the Zoning Administrator and City Engineer.

(3) When either the city, Wright County or the State of Minnesota creates or worsens a nonconforming setback or prevents or worsens compliance with the applicable parking requirements by acquiring a portion of a lot for a public improvement, the lot owner shall be entitled as a matter of right to obtain a variance for the nonconforming setback or parking condition so created or worsened. This section shall apply only to acquisitions taking place after September 1, 2007, and shall not apply to acquisitions taking place in the normal course of the land subdivision (platting) process.

(4) No nonconformity shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this chapter's adoption unless the moving shall bring the non-conformance into compliance with the requirements of this chapter.

(5) When any lawful nonconformity in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(6) A lawful nonconformity may be changed to lessen the nonconformity of use. Once a nonconformity has been changed, it shall not thereafter be so altered to increase the nonconformity.

(7) Any nonconforming use that is destroyed by fire, flood, explosion, or other casualty to the extent of more than 50% of its estimated market value, as determined by the County Assessor at the time of damage, may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty, and if the restored structure covers no greater

area and contains no greater cubic content than before the casualty. The city may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the Shoreland District with less than 50% of the required setback from the water is destroyed by fire or other peril to the extent of more than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impact on the adjacent property or body of water.

(8) Whenever a lawful nonconformity is discontinued for a period of one year, it shall be made to conform with the provisions of this chapter.

(9) Normal maintenance of a building or other structure containing or related to a lawful nonconformity is permitted, including necessary nonstructural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

(10) Any proposed structure which will, under this chapter, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this chapter may be completed in accordance with the approved plans provided construction is started within 60 days of the effective date of this chapter, is not abandoned for a period of more than 120 days, and continues to completion within two years. Such structure and use shall thereafter be a legally nonconforming structure and use.

(11) Lawful nonconforming, non-income-producing single and two-family residential units may be expanded or altered to improve nonconformance, but will not be increased, and the expansion or alteration does not change the unit occupancy capacity or parking demand.

(Ord. 110, passed 11-15-97; Am. Ord. 126, passed - - ; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1604, passed 5-10-16)
Penalty, see § 155.999

Cross-reference:

Area and width nonconformities, see § 155.025

PLANNED UNIT DEVELOPMENT

§ 155.465 PURPOSE.

(A) This subchapter is established to provide comprehensive procedures and standards designed for planned unit developments to allow the development of neighborhoods or portions thereof incorporating a variety of residential types and nonresidential uses, recognizing that traditional density, bulk, setbacks, use and subdivision regulations which may be useful in protecting the character of substantially developed areas may not be appropriate to control development in less developed areas.

(B) Specifically, a planned unit development (PUD) is intended to encourage:

(1) Innovations in residential development to the end that the growing demands for housing at all economic levels may be met by greater variety in tenure, type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments.

(2) Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.

(3) More convenience in location of accessory commercial and service areas.

(4) The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.

(5) A creative use of land and related physical development which allows a phased and orderly transition of land from rural to urban uses.

(6) An efficient use of land resulting in smaller networks of utilities and streets, thereby lower housing costs and public investments.

(7) A development pattern in harmony with the objectives of the Comprehensive Plan.

(8) A more desirable environment than would be possible through the strict application of zoning and subdivision regulations of the city.

(9) To give the landowner and developer input and feedback before completing design and to provide city officials with assurance that the project will retain the character envisioned for the area.

(10) To allow variation from some of the provisions of this chapter.

(Ord. 110, passed 11-15-97; Am. Ord. 121, passed 2-23-99)

Cross-reference:

Subdivisions, see Ch. 154

§ 155.466 GENERAL REQUIREMENTS AND STANDARDS.

(A) Ownership. An application for PUD approval shall be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions shall be directed to the development of the property as a unified whole. In the case of multiple ownership, the Approved Final PUD Plan and PUD Development Agreement will be binding on all owners.

(B) Comprehensive Plan consistency. The proposed PUD shall be consistent with the city's Comprehensive Plan.

(C) Zoning. All PUDs must be rezoned to a PUD zoning district indicating the underlying zoning, such as R1-PUD. Some variations from the provisions of the underlying zoning district may be allowed including but not limited to setbacks, height, lot area, width and depth, and yards (in accordance with division (E) of this section). No variations will be allowed to landscaping, screening, architectural standards or off-street loading.

(D) Density. The maximum allowable density in a PUD shall be in compliance with the applicable provisions of the underlying zoning district as found in § 155.140, except as follows:

(1) R-1a District. The maximum residential density may be increased in increments of 0.25 dwelling units per acre for each additional 5% of land provided as park or open space, over and above the minimum open space and park land dedication requirements as found in § 155.091. The additional density shall be accomplished by proposing narrower lots, while maintaining lot size, side yard setbacks, garage size, and garage width requirements found elsewhere in this chapter.

(2) R-4 District. The maximum residential density may be increased in the R-4 District consistent with Comprehensive Plan in the Downtown and Town Center PUD areas.

(E) Setbacks.

(1) The front, side and rear yard requirements at the periphery of the Planned Unit Development site at minimum shall be the same as imposed in the respective districts.

(2) No building shall be located less than 15 feet from the back of the curb line, along those roadways that are part of an internal street pattern.

(3) No building within the project shall be nearer to another building than either one-half the sum of the building heights of the two buildings or the sum of the side yard setbacks, whichever is less.

(F) Roadways. Roadways may vary from the design standards contained in the subdivision ordinance (Chapter 154) for road widths, right-of-way,

maximum grades, and cul-de-sac lengths upon recommendation by the City Engineer and approval of the City Council.

(G) Utilities. In any PUD, all utilities, including telephone, electricity, gas and tele-cable shall be installed underground.

(H) Landscaping. A Landscape Plan shall be provided and shall include a detailed planting list with sizes and species. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.

(I) Townhouse, quadraminium, cooperative and condominium apartments.

(1) No single townhouse structure shall contain more than eight dwelling units.

(2) Minimum unit lot frontage for townhouses shall be not less than 20 feet.

(3) Townhouses, quadraminiums, cooperatives and condominiums shall be subdivided on an individual unit basis according to the provisions of this chapter.

(J) Common open space. Common open space sufficient to meet the minimum requirements established in this chapter and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD as required by the City Council.

(K) Stating of public and common open space. When a PUD provides for common or public open space, the total area of common or public open space or land escrow security in any stage of development shall, at minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

(L) Operating and maintenance requirements for PUD common open space/facilities. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the city:

(1) Dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication.

(2) Landlord control, where only use by tenants is anticipated.

(3) Property owners association, provided all of the following conditions are met:

(a) Prior to the use or occupancy or sale or the execution of controls for sale of an individual building unit, parcel, tracts, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Laws 1963, Chapter 457, Section 11 and a set of floor plans such as specified by Laws 1963, Chapter 457, Section 13 shall be filed with the city. The filing with the city to be made prior to the filings of the declaration or document or floor plans with the recording officers of Wright County, Minnesota.

(b) The declarations of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject such properties to the terms of the declaration.

(c) The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs.

(d) The declaration shall additionally, among other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the city or fails to pay taxes or assessments on properties as they become due and in the event the city incurs any expenses in enforcing its rules and regulations, which expenses are not immediately reimbursed by the association or corporation, then the city shall have the right to assess each property its pro rata share of the city's expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

(e) Membership shall be mandatory for each owner and the owner's successor and assigns.

(f) The open space restrictions shall be permanent and not for a given period of years.

(g) The association shall be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.

(h) Property owners shall pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law.

(i) The association shall be able to adjust the assessment to meet changed needs.

(j) The bylaws and rules of the association and all covenants and restrictions to be recorded shall be approved by the City Council prior to the approval of the final PUD plan.

(M) Benefit. The proposed PUD shall accomplish one or more of the purposes stated in § 155.465(B) and shall not be simply for the enhanced economic gain of the applicant. The determination as to whether applicant has demonstrated that the proposed PUD accomplishes one or more of the purposes stated in § 155.465(B) shall be solely that of the City Council.

(Ord. 110, passed 11-15-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 2001, passed 7-14-20)

§ 155.467 PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT.

(A) Application conference. Prior to filing of an application for PUD, the applicant shall arrange for and attend a conference with the Zoning Administrator. At such conference, the applicant shall be prepared to generally describe the proposal for a PUD. The primary purpose of the conference is to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area and its conformity to the provisions of this chapter before incurring substantial expense.

(B) Review stages. Three review stages are required: PUD Concept Plan, Preliminary PUD Plan and Final PUD Plan.

(C) PUD Concept Plan.

(1) Purpose. The PUD Concept Plan provides an opportunity for the applicant to submit a plan to the city showing the basic intent and the general nature of the entire development without incurring substantial cost. This Concept Plan serves as the basis for public review so that the proposal may be considered at an early stage. The following elements of the proposed general concept plan represent the immediately significant elements, which the city shall review and for which a decision shall be rendered:

- (a) Overall maximum PUD density range.
- (b) General location of major streets and pedestrian ways.
- (c) General location and extent of public and common open space.

(d) General location of residential and nonresidential land uses with approximate type and intensities of development.

(e) Staging and time schedule of development.

(f) Other special criteria for development.

(2) Process.

(a) Developer meets with the Zoning Administrator to discuss the proposed development.

(b) Developer submits the necessary data as required in division (C) (3) of this section.

(c) A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting.

(d) The applicant or a representative thereof shall appear before the Planning Commission in order to present the concept and answer questions concerning the proposed development.

(e) Planning Commission makes a recommendation to the City Council on the General Concept Plan.

(f) City Council reviews all recommendations and provides further direction to the applicant.

(3) Required information.

(a) General information.

1. The landowner's name and address and interest in the subject property.

2. The applicant's name and address if different from the landowner.

3. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.

4. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and/or such other evidence as the City Attorney may require to show the status of title or control of the subject property.

(b) Present status.

1. The address and legal description of the subject property.
2. A map illustrating existing zoning, land use and street patterns within the subject property and within 1,000 feet of the subject property.
3. A map illustrating the precise location of property lines, easements, water mains, storm and sanitary sewers (with invert elevations) on and within 100 feet of the subject property.

(c) A written statement generally describing the proposed PUD and the market and demand which it is intended to serve and showing the development's relationship to the city's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city. A list of the ordinance regulations being deviated from in the proposed PUD shall also be submitted.

(d) Graphic reproductions of the existing site conditions at a scale of 100 feet.

1. Contours: minimum two foot intervals.
2. Location, type and extent of tree cover.
3. Slope analysis.
4. Location and extent of water bodies, wetlands and streams and flood plains within 300 feet of the subject property.
5. Significant rock outcroppings.
6. Existing drainage patterns.
7. Vistas and significant views.
8. Soil conditions as they affect development.
9. All of the graphics should be the same scale as the final plan to allow easy cross- reference.

(e) Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.

(f) A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

1. Area devoted to residential uses.
2. Area devoted to residential use by building type.

3. Area devoted to common open space.
4. Area devoted to public open space.
5. Approximate area devoted to streets.
6. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
7. Approximate area, and floor area, devoted to commercial uses.

(g) A general schedule of the timing for the development including development stages and the approximate number of units in each shall be provided.

(h) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

(i) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

(j) The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

(4) Limitation on PUD Concept Plan approval. The first stage of a Preliminary PUD Plan must be submitted within six months of City Council approval of the PUD Concept Plan. Extensions for six months may be granted by the City Council.

(5) Optional submission of Preliminary PUD Plan. The applicant may submit a Preliminary PUD Plan concurrently with a PUD Concept Plan in some cases upon the recommendation of city staff.

(D) Preliminary PUD Plan.

(1) Purpose. The purpose of the Preliminary PUD Plan is to provide a specific and particular plan and Preliminary Plat upon which the Planning Commission will hold a public hearing and make a recommendation to the City Council.

(2) Process.

(a) Within six months of approval of the PUD Concept Plan, the applicant shall file with the Zoning Administrator an application for Preliminary PUD Plan approval. This application consisting of the information and submissions required by division (C)(3) of this section and all subdivision ordinance requirements (see Chapter 154). The submission

may be for the entire PUD, or for one or more stages thereof in accordance with a staging plan approved as part of the PUD Concept Plan. The Preliminary PUD Plan shall refine, implement and be in substantial conformity with the approved PUD Concept Plan. A Preliminary PUD Plan shall be deemed not to be in substantial conformity with an approved PUD Concept Plan if it:

1. Departs by more than 5% from the maximum density approved for the PUD or exceeds the implied maximum density established by the Comprehensive Plan for the area in which the PUD will be located.
2. Decreases by more than 5% the area approved for public and common open space or changes the general location of such areas.
3. Relocates approved circulation elements to any extent that would decrease their functionality, adversely affect their relation to surrounding lands and circulation elements or reduce their effectiveness as buffers or amenities.
4. Significantly alters the arrangement of land uses within the PUD.
5. Delays by more than one year any stage of an approved staging plan.
6. Departs from the PUD Concept Plan in any other manner which the Planning Commission shall, based on stated findings and conclusions, find to materially alter the plan or concept for the proposed PUD.

(b) Following the public hearing by the Planning Commission, a recommendation will be forwarded to the City Council. Upon approval, the applicant may proceed to prepare a Final PUD Plan.

(3) Submittals. Preliminary PUD Plan submissions should depict and outline the proposed implementation of the PUD Concept Plan. Information from the PUD Concept Plan may be included for background and to provide a basis for the submitted plan. The Preliminary PUD Plan submissions shall include, but not be limited to:

(a) Zoning classification required for Preliminary PUD Plan submission and any other public decisions necessary for implementation of the proposed plan.

(b) A preliminary plat prepared in accordance with the city's subdivision ordinance (see Chapter 154).

(c) Four sets and one 11 by 17 inch copy (unless otherwise directed by the Zoning Administrator) of preliminary plans, drawn to a scale of not less than 1 inch equals 100 feet (or scale requested by the Zoning Administrator) containing at least the following information:

1. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated).

2. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.

3. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, and existing buildings which will remain, if any.

4. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.

5. Location, designation and total area of all common open space.

6. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

7. Proposed lots and blocks, if any, and numbering streets.

8. The location, use and size of structures and other land uses on adjacent properties.

9. Detailed sketches and provisions of proposed landscaping.

10. General grading and drainage plans for the developed PUD.

11. Any other information that may have been required by the city staff, Planning Commission or City Council in conjunction with the approval of the PUD Concept Plan.

(d) An accurate legal description of the entire area within the PUD for which final development plan approval is sought.

(e) A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.

(f) A tabulation indicating the gross square footage, if any, of commercial floor space by type of activity (for example, drug store, dry cleaning, supermarket).

(g) Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings.

(h) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility

lines and facilities, lots, block, public and common open space, general landscaping plan, structures, and uses.

(i) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the PUD Concept Plan.

(j) A soil erosion control plan acceptable to the City Engineer, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

(k) A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.

(l) Such other and further information as the city staff, Planning Commission or City Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.

(m) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this section which it finds to be unnecessary for the consideration of the specific proposal for PUD approval.

(4) Review and action by city staff and Planning Commission. Immediately upon receipt of a completed Preliminary PUD Plan, the Zoning Administrator shall refer such plan to the following city staff and/or official bodies for the indicated action:

(a) The City Attorney for legal review of all documents.

(b) The City Engineer for review of all engineering data for compliance with the requirements of this chapter and review of the city/developer agreement.

(c) The City Building Official for review of all building plans for compliance with the requirements of this chapter, the Minnesota State Building Code and any other applicable federal, state, or local codes.

(d) The Zoning Administrator for review of all plans for compliance with the intent, purpose and requirements of this chapter and conformity with the General Concept Plan and Comprehensive Plan.

(e) The City Planning Commission for review and recommendation to the City Council.

(f) When appropriate, as determined by the Zoning Administrator to the Park Board for review and recommendation.

(g) When appropriate, as determined by the Zoning Administrator to other special review agencies such as Watershed Districts, Soil Conservation Services, Highway Departments, or other affected agencies.

(h) All staff designated in divisions (D)(4)(a) through (D)(4)(d) shall submit their reports in writing to the Planning Commission and applicant.

(5) Schedule.

(a) Developer meets with the Zoning Administrator and city staff to discuss specific development plans.

(b) The applicant shall file the Preliminary PUD Plan application within six months after PUD Concept Plan review, together with all supporting data and filing fee as established by City Council resolution.

(c) Within 60 days after verification by the staff that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.

(d) The Zoning Administrator, upon verification of the application, shall instruct the City Administrator to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of the hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten days prior to the hearing and written notification of the hearing shall be mailed at least ten days prior to all owners of land within 300 feet of the boundary of the property in question.

(e) Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter.

(f) After the public hearing has been set, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the City Council.

(g) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, such information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(h) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(i) Within 60 days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall review the reports and plans and submit its written report and recommendations to the City Council and applicant. Such report shall contain the findings of the Planning Commission with respect to the conformity with the approved PUD Concept Plan. Any changes shall be reviewed with respect to the merit or departure from substantial conformity with the PUD Concept Plan. The Planning Commission shall recommend approval or denial.

(j) Within 30 days of receipt of the report and recommendation of the Planning Commission, the City Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items, or deny approval of the plan.

(k) Unless a Final Plan covering the area designated in the Preliminary PUD Plan as the first stage of the PUD has been filed within six months from the date City Council grants approval or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this chapter and/or an approved Preliminary PUD Plan, the approval shall expire. Upon application by the applicant, the Council at its discretion may extend for not more than six months the filing deadline for any Final Plan when, for good cause shown, such extension is necessary.

(l) At any time following the approval of a Preliminary PUD Plan by the City Council, the applicant may, pursuant to the applicable ordinances of the city, apply for, and the City Engineer may issue, grading permits for the area within the PUD for which Preliminary PUD Plan approval has been given.

(E) Final PUD Plan.

(1) Purpose. The Final PUD Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the PUD. The Final PUD Plan is intended only to add detail to, and to put in final form, the information contained in the PUD Concept Plan and the Preliminary PUD Plan and shall conform to the Preliminary PUD Plan in all respects.

(2) Process.

(a) Upon approval of the Preliminary PUD Plan, the applicant shall file with the Zoning Administrator a Final PUD Plan within six months consisting of the information and submissions required by division (C)(3) of this section for the entire PUD or for one or more stages. This application

will be considered at the next possible regular Planning Commission meeting.

(b) Within 60 days, the findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(c) Within 30 days of receipt of the findings and recommendations of the Planning Commission, the City Council shall grant approval or denial of the request.

(d) Within 120 days of its approval, the applicant shall cause the Final PUD Plan, or such portions thereof as are appropriate, to be recorded with the Wright County Recorder or Registrar of Titles. The applicant shall provide the city with a signed copy verifying county recording within 40 days of the date of approval.

(e) The Zoning Administrator shall instruct the City Attorney to draw up a PUD Agreement, which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Administrator and the applicant within 120 days of City Council approval of the Final PUD Plan. In all cases, a certified copy of the document evidencing City Council action shall be promptly delivered to the applicant by the Zoning Administrator.

(3) Final PUD plan - submittals. After consideration of a PUD Concept Plan and approval of a Preliminary PUD Plan, the applicant will submit the following materials for Final PUD Plan review and prior to issuance of a building permit:

(a) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.

(b) Final site, landscaping and grading plans along with all finalized information as required in division (C)(3) of this section

(c) Final plat in accordance with the city's subdivision ordinance (see Chapter 154).

(d) All certificates, seals and signatures required for the dedication of land and recordation of documents.

(e) Final architectural working drawings of all structures.

(f) Final engineering plans and specifications for streets, utilities and other public improvements, together with a Development Agreement for the installation of such improvements and financial guarantees for the completion of such improvements.

(g) Any other plans, agreements, or specifications necessary for the city staff to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code.

(h) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.

(4) Building and other permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final PUD Plan has been recorded and upon application of the applicant pursuant to the applicable ordinances of the city, all appropriate officials of the city may issue building and other permits to the applicant for development, construction and other work in the area.

(5) Limitation on Final Plan approval. Within one year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall automatically render void the PUD permit and all approvals of the PUD plan unless an extension shall have been granted as hereinafter provided. The time limit established by this division may, at the discretion of the City Council, be extended for not more than one year by ordinance or resolution duly adopted.

(6) Inspections during development.

(a) Following Final PUD Plan approval, the Zoning Administrator shall annually review all permits issued and construction undertaken and compare actual development with the approved development schedule.

(b) If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he or she shall immediately notify the City Council. Within 30 days of such notice, the City Council shall either by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located, or shall take such steps as it shall deem necessary to

compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment of the Final Plan.

(Ord. 110, passed 11-15-97; Am. Ord. 121, passed 2-23-99; Am. Ord. 0405, passed 5-11-04; Am. Ord. 0605, passed 7-25-06; Am. Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0802, passed 3-11-08)

SIGNS

§ 155.490 FINDINGS, PURPOSE AND EFFECT.

(A) Findings. The City Council hereby finds as follows:

(1) Exterior signs have a substantial impact on the character and quality of the environment.

(2) Signs provide an important medium through which individuals may convey a variety of messages.

(3) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

(4) The City Code has included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of physical characteristics of signs within the city has had a positive impact on traffic safety and the overall appearance of the community.

(B) Purpose and intent. It is not the purpose or intent of §§ 155.490 through 155.500 to regulate the message displayed on any sign; nor is it the purpose or intent of §§ 155.490 through 155.500 to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of §§ 155.490 through 155.500 is to:

(1) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.

(2) Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.

(3) Improve the visual appearance of the city, while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.

(4) Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.

(C) Effect. A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, is to:

(1) Allow a wide variety of sign types in commercial zones and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.

(2) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zoning districts, subject to the standards set forth in this subchapter.

(3) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

(4) Provide for the enforcement of the provisions of this subchapter.

(Ord. 0701, passed 1-9-07)

§ 155.491 SUBSTITUTION.

The owner of any sign which is otherwise allowed by this subchapter may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

§ 155.492 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a continuous period of one year or more, or any sign which pertains to a time,

event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

ADDRESS SIGN. A sign communicating street addresses only, whether in script or numerical form.

ADVERTISING SIGN. A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, and/or services which are not exclusively related to the premises on which the sign is located.

AREA IDENTIFICATION SIGN.

(1) A monument sign identifying any of the following:

- (a) An office or business structure or development containing three or more independent operations;
- (b) A single business containing three or more separate structures;
- (c) A shopping center; and/or
- (d) Any integrated combination of the above.

(2) Area identification signs shall only identify an area, complex, or development and shall not, unless approved by the City Council, contain the name of individual owners or tenants. Further, such signs may not contain advertising.

AWNING. A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk or the like. Any part of an awning which also projects over a door shall be counted as an awning.

AWNING SIGN. A building sign or graphic printed on or in some fashion attached directly to the awning material.

BALLOON SIGN. A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

BANNERS. Attention-getting devices used in exterior display which resemble flags and are of a paper, cloth, or plastic-like consistency.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING SIGN. Any sign attached to or supported by any building.

BUSINESS SIGN. Any sign which identifies a business, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal, commodity, or service, including entertainment, offered or sold upon the premises where such sign is located.

CABINET SIGN. Any wall sign that is not of channel or individually mounted letter construction.

CAMPAIGN SIGN. A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue, to be voted on at a governmental election.

CANOPY. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway, or in the case of motor fuel stations, provides shelter over the fuel tanks.

CANOPY SIGN. Any sign that is part of or attached to a canopy, made of fabric, plastic, or a structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include non-electronic signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service or entertainment.

CONSTRUCTION SIGN. A non-illuminated sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, or financier.

CROP DEMONSTRATION SIGN. A sign identifying agricultural products utilized upon the subject property.

DIRECTIONAL SIGN. A sign limited to directional messages, primarily to direct traffic to the location of a place, area or activity.

DISTRICT. A zoning district as defined by the City Zoning Ordinance.

DYNAMIC DISPLAY. Any characteristics of a sign that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates LED (Light-Emitting Diode) lights manipulated through digital input, digital ink, or any other method or technology that allows the sign face to present a series of images or displays.

ELECTRONIC MESSAGE SIGN. A sign having electronically changing text.

ELECTRONIC NUMBER SIGN. A sign having electronically changing numbers.

ELEVATION. The view of the front, side, or rear of a given structure(s).

ELEVATION AREA. The area of all walls that face any lot line.

ERECT. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

FARM IDENTIFICATION SIGN. A sign which identifies or otherwise describes the name, ownership and/or type of agricultural operation of the lot or parcel of land upon which it is situated.

FLAG. Any fabric or similar lightweight material attached at one end of the material to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

FLASHING SIGN. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.

FREESTANDING SIGN. Any stationary or portable self-supported sign not affixed to any other structure.

FRONTAGE. The line of contact of a property with the public right-of-way.

GOVERNMENTAL SIGN. A sign which is erected by a governmental unit.

GRADE. Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

HEIGHT OF SIGN. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

IDENTIFICATION SIGN. A sign which identifies the name, activity, owner, manager, resident, or address of the premises where the sign is located and which contains no other material.

ILLUMINATED SIGN. Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

INTERIOR SIGN. A sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

LOT. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

BASE LOT. A lot meeting all the specifications within its zoning district prior to being divided into a two-family or quadraminium subdivision.

CORNER LOT. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

DOUBLE FRONTAGE LOT. An interior lot having frontage on two streets.

MONUMENT SIGN. A sign not supported by exposed posts or poles which is designed to architecturally match the principal structure and be located directly at grade where the base width dimension is 75% or more of the greatest width of the sign.

MOTION SIGN. Any sign which revolves, rotates, has any moving parts, or gives the illusion of motion.

MULTIPLE TENANT BUILDING. Any building which has four or more tenants with each tenant having a separate ground level exterior public entrance or access to an exterior public entrance via a common hallway or door that does not traverse through another leasehold space.

NON-COMMERCIAL MESSAGE SIGN. Dissemination of messages not classified as commercial speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

NONCONFORMING SIGNS.

(1) **LEGAL.** A sign which lawfully existed at the time of the passage of this chapter but which does not conform to the regulations of this chapter.

(2) **ILLEGAL.** A sign which was constructed after the passage of this chapter and does not conform to the regulations of this chapter.

OFF-PREMISE SIGN. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this subchapter, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

ON-PREMISE MESSAGES. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

PARAPET. That part of any wall or wall-like structure entirely above the roof line.

PORTABLE SIGN. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure. A temporary sign.

PROJECTING SIGN. Any wall sign which is affixed to a building or wall in such a manner that its leading edge extends a minimum of one foot beyond the surface of the building and cannot extend more than four feet beyond such building.

PYLON SIGN. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by a pole(s) or beam(s) and with more than 25% of the area below the sign face open.

REAL ESTATE SIGN. A non-illuminated sign placed upon a property advertising that particular property for sale or for rent.

REAL ESTATE DEVELOPMENT SIGN. A non-illuminated sign advertising a group of properties for-sale or for rent and located on one of said properties for-sale or for rent.

ROOF. The exterior surface and the supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

ROOF LINE. The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

ROOF SIGN, INTEGRAL. Any building sign erected or construed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of

the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six inches.

ROOF SIGN. A sign which is located above the eave or coping line.

ROTATING SIGN. A sign which revolves or rotates by mechanical means.

RUMMAGE SALE. An infrequent temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing, and appliances.

SANDWICH BOARD SIGN. A self-supported and moveable, typically A-shaped, temporary sign with two visible sides that is placed adjacent to a business, typically on a sidewalk and contains commercial speech.

SHOPPING CENTER. A group of contiguous business properties under common ownership.

SIGN. Any letter, word, symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

SIGN AREA. The area of the internally lighted signs shall be the total area of the lighted surface. All other signs shall be measured at the perimeter of the surface on which the sign is inscribed. For signs consisting of letters, figures, or symbols applied directly onto a building or structure, the sign area shall be that area enclosed within the smallest regular geometric figure needed to completely encompass all letters, figures or symbols of the sign.

SIGN FACE. The surface of the sign upon, against, or through which the message of the sign is exhibited.

SPECIAL EVENT SIGN. A temporary sign that is used to advertise or promote on or off premise special events organized or operated by civic, philanthropic, educational, or religious organizations, such as the Daze & Knights Festival. Activities that are part of a regular series are not deemed special events, unless they are an atypical activity outside the ordinary.

TEMPORARY ADVERTISING SIGN. Any banner, special event sign, or window sign.

TEMPORARY SIGN. A sign designed to be displayed for a limited period of time that is not permanently fixed to the land or a structure.

VARIANCE. The waiving by city action of the literal provisions of this subchapter in instances where their strict enforcement would cause undue

hardship because of physical circumstances unique to the individual property under consideration as found in § 155.442.

WALL SIGN. A sign affixed to the exterior wall of a building which does not project more than one foot from the surface to which it is attached, nor extend beyond the top of the parapet wall.

WINDOW SIGN. A sign affixed to or inside of a window in view of the general public.

ZONING ADMINISTRATOR. The Zoning Administrator or other person charged with administration and enforcement of this subchapter as appointed by the City Council.

(Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1604, passed 5-10-16; Am. Ord. 1704, passed 10-24-17)

§ 155.493 GENERAL PROVISIONS.

(A) **Placement in right-of-way.** No signs, other than those of governmental jurisdictions, shall be permitted within public right-of-way or roadway easements.

(B) **Location.** No sign or sign structure, unless otherwise regulated by this section, shall be closer to any lot line than ten feet. On corner lots, no sign shall be located within the visibility triangle required by § 155.032.

(C) **Drainage and utility easement.** No sign shall be placed within any drainage or utility easement, except upon written approval of the City Engineer.

(D) **Public safety.** No signs, guys, stays or attachments shall be erected, placed or maintained on rocks, fences, or trees, nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof, with the exception of signs necessary for security, or to preserve public safety, as determined by the City Council.

(E) **Construction.** No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the City Building Official.

(F) **Obstruction.** No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress of any building or structure.

(G) Electricity. The installation of electrical signs shall be subject to the state's Electrical Code. Electrical service shall be underground for freestanding signs and not visible from public view for wall signs.

(H) Illumination. Illuminated signs shall comply with § 155.033 (Lighting) and shall be shielded to prevent lights from being directed onto residential property, or at oncoming traffic, in such brilliance that it impairs the vision of the driver. Nor shall such signs interfere with, or obscure, an official traffic sign or signal. This includes indoor signs which are visible from public streets and highways.

(I) Landscaping. Landscaping that accompanies signage must be approved by the Zoning Administrator with regards to installation, design and maintenance.

(J) Maintenance. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated or defaced, as determined by the City Building Official or Zoning Administrator, shall be removed, repainted, repaired, or replaced by the permit holder, owner or agent of the property upon which the sign stands.

(K) Design. All freestanding signs and sign structures, including sign supports, poles, beams, and brackets must be architecturally designed to match the principal structure.

(L) Illuminated architectural features. All illuminated architectural features ("Features") or portions thereof, not defined as signage or a canopy sign, shall not count towards overall signage and shall meet the following standards:

(1) Features shall include, but not be limited to, wall, roof and window mounted linear lighting, the wall surface between multiple rows of linear lighting, illuminated sign bands, backlit canopies, awnings or wall banding features.

(2) The color, illumination or intensity of these Features shall not change. No scrolling, flashing, continuous movement or other motion shall be permitted.

(3) Features may only be illuminated during business hours or until 11:00 p.m., whichever is later.

(4) No feature shall exceed a maximum illumination of .3 (3/10th) candelas above ambient light levels, measured from a distance of 50 feet.

(5) Each feature must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.

(6) Features are not permitted on sides of buildings immediately adjacent to residential properties, unless across the street.

(Ord. 0701, passed 1-9-07; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1705, passed 12-12-17)

§ 155.494 PERMITTED SIGNS.

The following signs are allowed in all districts without a permit, but shall comply with all other applicable provisions of this subchapter:

(A) Signs posted by government. Any sign in the public interest, erected by, or on the order of, public officers in the performance of their public duty, such as directional signs, regulatory signs, warning signs, and informational signs and all signs posted by public utilities whether or not such signs are in the public right-of-ways.

(B) Campaign signs. Notwithstanding any other provisions of this subchapter, all signs of any size containing non-commercial speech may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state general election in accordance with M.S. § 211B.045. All such signs or posters shall be confined to private property. No such sign or poster shall be within any polling place or within 100 feet of the building in which any polling place is situated on the date of any public election held within the city.

(C) Window signs. Window signs shall be allowed subject to the sign area allowances of the respective zoning districts provided that the sign not exceed 50% of the total area of the window in which they are displayed.

(D) Address signs. A minimum of one address sign shall be required on each building in all districts. Such sign(s) shall contain numerals of a sufficient size to be legible from the nearest street, yet shall not exceed two square feet in area. The numerals shall be metal, glass, plastic or curable material and shall not be less than three and one-half inches in height. The numerals shall be placed as to be easily seen from the street.

(E) Flags, non-commercial. A permit shall not be required for a non-commercial flag. Non-commercial flags shall not count against the maximum sign area allowed in each zoning district. In the Public and Institutional Zoning District, each non-commercial flag may not exceed 60 square feet in area and no more than three non-commercial flags may be displayed per lot. In all other zoning districts, each non-commercial flag may not exceed 24 square feet in area and no more than three non-commercial flags may be displayed per lot. The side yard setback for each flagpole holding a non-commercial flag shall be at least equal to the height

of the flagpole and be placed a minimum of ten feet from a public right-of-way.

(F) Sandwich board signs shall be allowed within all business zoning districts subject to the following regulations:

(1) Number. One sandwich board sign is permitted per site or one per tenant for multitenant sites.

(2) Size. Sandwich board signs may be no larger than eight square feet per sign face and four feet in height. No materials, including but not limited to balloons, streamers and windsocks, may be added to the sign to increase its height or width.

(3) Location.

(a) Sandwich board signs shall be placed only on the business property and meet required principal building setbacks or be located within ten feet of the principal business entry door.

(b) Sandwich board signs shall be located so as to maintain a minimum four foot pedestrian walkway unless additional setback is necessary due to high volume pedestrian traffic as determined by the Zoning Administrator except, in the B-2 (Downtown, Commercial) Zoning District, sandwich boards may be placed on public sidewalks directly in front of the business being advertised. Before installing a sandwich board sign in the city's public right-of-way, the owner of the property upon which the sandwich board sign is to be located must procure and maintain while the sandwich board sign is in place, at the owner's sole cost and expense, a policy of comprehensive general liability insurance on an "occurrence" basis against claims for personal injury liability, including, without limitation, bodily injury, death and property damage, with a limit of not less than \$1,000,000 per occurrence. Such insurance shall name the city as an additional insured. The property owner shall provide the city a certificate of insurance as evidence of such insurance coverage and a release and hold harmless agreement in form and content approved by the City Attorney.

(c) Sandwich board signs displayed by businesses in multi-tenant buildings must be placed adjacent to the business entrance of the business placing the sign when more than one sandwich board sign is being displayed on the property.

(d) Sandwich board signs shall not block driveways, entryways, parking spaces and pedestrian accesses, create a safety hazard or obstruct vehicular/pedestrian traffic visibility.

(e) Sandwich board signs shall not be placed on sidewalks that have not been cleared of snow and/or other debris.

(4) Display. Sandwich board signs shall only be displayed during the hours when the business is open to the public.

(5) Design. Sandwich board signs shall be professionally painted and/or made of superior quality weather and wind resistant materials. Signs shall not be illuminated or contain electronic moving parts.

(Ord. 0701, passed 1-9-07; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1604, passed 5-10-16; Am. Ord. 1704, passed 10-24-17)

§ 155.495 PROHIBITED SIGNS.

(A) Any sign or attention-getting device not specifically regulated by this subchapter shall be considered prohibited until the City Council can make a determination as to its acceptability and, if appropriate, initiate an amendment to this subchapter.

(B) The following signs are specifically prohibited by this subchapter:

- (1) Roof signs;
- (2) Signs painted directly on the outside wall of a building;
- (3) Off-premise signs; except for off-premise signs in parks as set forth in § 155.496(D)(3);
- (4) Private signs that resemble any official marker, governmental agency, or display such words as “stop” or “danger” unless so specified by this subchapter or the City Code;
- (5) Flashing signs;
- (6) Motion signs, and signs giving off an intermittent, steady, or rotating beam of light, except as allowed by M.S. § 173.016, Subd. 3;
- (7) Illegal nonconforming signs;
- (8) Signs which advertise an activity, business, product, or service no longer produced, processed, or conducted on the premises upon which the sign is located;
- (9) Signs on or attached to equipment such as vehicles, semi-truck trailers or other portable trailers where signing is a principle use of the equipment on either a temporary or permanent basis;
- (10) Electronic message signs except as set forth in § 155.496(C)(8) and § 155.496(D)(1)(e).

(Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 1003, passed 6-8-10)

§ 155.496 ZONING DISTRICT REGULATIONS.

(A) In Agricultural Zoning Districts the following provisions shall apply:

(1) Within Agricultural Zoning Districts, non-commercial message signs are permitted as follows:

District

Maximum Sign Area of Single Sign

Total Area of All Signs

Maximum Height of Sign

Non-commercial

Commercial

A-1

20 square feet per surface

30 square feet

20 feet

6 feet

(2) No more than two signs may be displayed per property.

(3) One commercial sign may be displayed per property.

(4) Signs must be a minimum distance of ten feet apart.

(5) Signs must be a minimum distance of ten feet from a street curb, driveway and property line.

(6) Any farm identification sign existing prior to December 9, 1997, shall be considered legally non-conforming and be subject to the regulations of § 155.499.

(B) In Residential Zoning Districts the following provisions shall apply:

(1) Signs for permitted uses as follows:

District

Maximum Signs Area of Single Sign

Total Area of All Signs

Maximum Height of All Signs

Non- Commercial

Commercial

Non-Commercial and Commercial

R-1, R-1a, R-2, RR

10 square feet per surface

15 square feet

2 square feet

6 feet

R-3, R-4

10 square feet per surface

15 square feet

2 square feet

6 feet

(a) No more than two signs may be displayed per property.

(b) Signs must be a minimum distance of ten feet apart.

(c) Non-commercial signs shall be a minimum distance of ten feet from the street curb and property line.

(d) One commercial sign may be displayed identifying the presence of a permitted home occupation per property if the business does not have a physical presence on another property and if compliant with the following:

1. The sign shall be mounted flat to the exterior wall of the principle structure, except in the R-2 and RR zoning districts a freestanding sign shall be allowed if located within five feet of the driveway and a minimum of 40 feet from the road or 30 feet from the front property line, whichever is greater.

2. All commercial signs shall be constructed of weather resistant materials that complement the principle structure and not be internally illuminated.

(2) Signs for conditional uses, except for special home occupations as regulated by § 155.065.

(a) Monument sign.

1. Location. No part of sign shall be less than ten feet from any property line, driveway or parking lot.

2. Number. One double-sided monument sign shall be allowed per property.

3. Area. The sign area cannot exceed 64 square feet in area.

4. Height. Maximum height of ten feet.

5. Design. Electronic message signs can be included as part of the overall sign design. Message signs shall not exceed 50% of the overall area of the identification sign. The sign may be illuminated, but no flashing. Only non-commercial messages are permitted to be displayed on the sign.

(b) Wall sign.

1. Location. Wall signs shall be permitted on one wall, except in the cases of buildings located on corner lots, or through lots which shall be allowed wall signage on the same number of walls as street frontage.

2. Area. The aggregate area of the wall sign shall not exceed 5% of the area of the wall to which the sign is attached, up to a maximum of 100 square feet.

(C) In Business and Industrial Zoning Districts the following provisions shall apply.

(1) Area. The total area of all signs displayed on a lot shall not exceed 20% of the area of the front building facade, except for buildings located on a corner lot, in which case the total area of all signs may not exceed 20% of the area of either the front or side building facades, whichever is greater. For purposes of calculating area, the wall itself shall be used. The wall shall not include the area of any canopy.

(2) Monument signs.

(a) Location. No part of a freestanding sign shall be less than ten feet from a side or front lot line or less than five feet from a driveway or parking area, except in the B-2 Zoning District where a freestanding sign may be allowed to be located five feet from any property line, parking area or driveway.

(b) Number. No more than one double-side monument sign shall be allowed per property. Lots which have double-frontage on a principal arterial, minor arterial or collector road shall be allowed a second monument sign.

(c) Area. Sign area may not exceed 96 square feet on each side with a maximum height of 18 feet. The base area of the sign shall be a minimum of two feet in height and a maximum of 50% of the total height of the sign, except in the B-2 Zoning District where a maximum size of 32 square feet and a maximum height of six feet is allowed. A second monument sign if permitted, shall not exceed 32 square feet in area and shall have a maximum height of no more than ten feet, except in the B-2 Zoning District where the height shall be a maximum of no more than six feet. There is no minimum height for the base of the sign; however the base cannot exceed 50% of the total height of the sign.

(d) Design. All portions of the sign structure, excluding the sign area, shall be constructed of the same materials as the principal building. Each business sign, of any type, may contain no information beyond the name, symbol and nature of the business conducted on the premises, or the name and price of a product sold by a business being conducted on the premises.

(e) Landscaping. The area around the base of the sign shall be landscaped with plant materials that blend with the sign structure and are consistent with other side landscaping.

(3) Wall signs.

(a) Location. Wall signs shall be erected within the portion or entryway of the building that is leased or occupied by the business. Wall signs shall not be attached to any element listed in § 155.046(B)(2).

(b) Frontage. Wall signage shall be permitted on one wall, except in the cases of buildings located on corner lots, or through lots (not adjacent to a residential district) which shall be allowed wall signage on the same number of walls as it has street frontages.

(c) Area. In the B-1, B-2, B-3 and I-1 Zoning Districts, the total area of all wall signs on each elevation, in addition to being subject to the overall business sign area limitation as set forth in division (B)(1), shall not exceed 15% of the area of the wall to which the sign(s) are attached, up to a maximum size of 200 square feet for each sign.

(d) Design. In the B-2 Downtown Commercial District signs must contain individually lit letters and symbols.

(4) Tenant buildings larger than 25,000 feet. Multiple tenant buildings larger than 25,000 square feet in area with four or more tenants with individual exterior entrances.

(a) Freestanding sign.

1. Location. Multiple Tenant Buildings in the B-1, B-2, B-3 and I-1 Districts.

2. Number. No more than one freestanding sign may be permitted on-site.

3. Area. Sign shall not exceed 150 square feet in area.

4. Height. Sign shall be no higher than 30 feet.

5. Design. All portions of the sign structure, excluding the sign area, shall be constructed of the same materials as the principal building. Each business sign, of any type, may contain no information beyond the name, symbol and nature of the business conducted on the premises, or the name and price of a product sold by a business being conducted on the premises.

(b) Wall sign. The aggregate area of such signs shall not exceed 10% of the exterior wall of the leasehold area. For purposes of calculating area, the building itself shall be used. The building facade shall not include the area of any canopy.

(5) Tenant buildings less than 25,000 feet. Multiple tenant buildings less than 25,000 square feet in area or any multiple tenant building with three or less occupants, but more than 25,000 square feet in area.

(a) Monument sign. Monument signs are subject to all regulations set forth in § 155.496(C)(2).

(b) Wall sign. The aggregate area of such signs shall not exceed 10% of the area of the exterior wall of the leasehold area. For purposes of calculating area, the building itself shall be used. The building facade shall not include the area of any canopy.

(6) Projecting signs. Projecting signs are permitted in the B-2 Zoning District, subject to the following regulations:

(a) Design. The design of a projecting sign shall be consistent with the design of the building to which the projecting sign is attached, as determined by the Zoning Administrator.

(b) Number. Number of wall signs are subject to all regulations set forth in § 155.496(C)(3)(c).

(c) Location. Before installing a projecting sign that extends into the airspace above the city's public right-of-way, the owner of the property upon which the projecting sign is to be located must procure and maintain while the projecting sign is in place, at the owner's sole cost and expense, a

policy of comprehensive general liability insurance on an “occurrence” basis against claims for personal injury liability, including, without limitation, bodily injury, death and property damage, with a limit of not less than \$1,000,000 per occurrence. Such insurance shall name the city as an additional insured. The property owner shall provide the city a certificate of insurance as evidence of such insurance coverage and a release and hold harmless agreement in form and content approved by the City Attorney.

(d) Height. The bottom of the projecting sign shall be a minimum of ten feet above ground and the projecting shall not extend above the roof line of the building to which it is attached.

(e) Size. A projecting sign shall not extend more than four feet beyond the surface of the building to which the projecting sign is affixed. The sign area of a projecting sign shall not exceed 20 square feet and is subject to wall sign area limitations as set forth in § 155.496(C)(3)(c).

(7) Canopies and awnings on buildings. The design of canopies shall be in keeping with the overall building design in terms of location, size, and color. No canopies with visible wall hangers shall be permitted. Signage on canopies may be substituted for allowed building signage and shall be limited to 25% of the canopy area. Internally illuminated canopies must be compatible with the overall color scheme of the building.

(8) Canopy signs on motor vehicle stations.

(a) Location. Canopy sign(s) are permitted for motor fuel station properties.

(b) Number. Motor fuel stations shall be allowed no more than one canopy sign, except in cases of buildings located on corner lots, which shall be allowed one canopy sign per street frontage.

(c) Area. The total area of each canopy sign, in addition to being subject to the overall business sign area limitation as set forth in § 155.496(C)(1), shall also not exceed 32 square feet or 25% of the vertical surface area of the face of the canopy the sign will be affixed to, whichever is less. Canopy signs shall not be interpreted as wall signs for calculating the number of signs allowed as described in § 155.496(C)(3)(b)

(9) Dynamic display signs. Dynamic display signs must meet those standards as provided above and as follows:

(a) Location.

1. Permitted only in the B-1, B-2, B-3 and I-1 zoning districts, unless specifically addressed in another zoning district; and

2. Permitted only on monument signs.

(b) Public road frontage. There shall be one dynamic display sign per lot. The lot shall have at least 100 feet of continuous road frontage on the same street.

(c) Orientation. In the B-1 and B-3 zoning districts, no dynamic display sign may be located closer than 75 feet from a lot used exclusively for a residential use or in a residential zone.

(d) Sign area.

1. Dynamic display signs may occupy no more than 75% of the sign area of any sign. Monument signs are allowed a dynamic display sign area up to a maximum size of 32 square feet or 75% of the total sign area, whichever is less. Freestanding signs are allowed dynamic display sign area up to a maximum size of 50 square feet or 75% of the total sign area, whichever is less.

2. Remainder of the sign must not have the capacity to have dynamic displays even if not used; and

3. Only one continuous dynamic display area is allowed on a sign face.

(e) Message display.

1. Static display. The display must be static and the transition from one static display to another must be immediate without any special effects, i.e. fade, dissolve, blink, scroll, or appear to simulate motion in any way. The images and messages displayed must be complete in themselves without continuation in content to the next image or message or to any other sign.

2. Duration. The dynamic display may not change or move more often than once every ten seconds.

3. Dimmer control. Dynamic displays must be equipped with automatic dimming technology or other mechanisms that automatically adjust the sign's illumination level based on ambient light conditions.

4. Resolution. The sign must have a maximum pixel size of 17mm (millimeter) spacing to provide a detailed display necessary for clear and adequate visibility.

5. Brightness.

a. No sign may exceed a maximum illumination of .3 (3/10th's) candelas above ambient light level vs. other methods and as measured 50 feet from the sign's face. The city may, at its discretion, meter the dynamic display to determine that the sign's illumination is no greater than .3 (3/10th's) candelas.

b. No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

c. No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

d. The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made immediately upon notice of non-compliance from the city.

6. Color. Full color dynamic display signs are permitted.

7. Letter size. Every line of copy and graphics in a dynamic display must be at a minimum:

a. Seven inches in height on a road with a speed limit of 30 mph or less;

b. Nine inches in height on a road with a speed limit of 31 to 45 mph;

c. Twelve inches in height on a road with a speed limit of 46 to 55 mph; and

d. Fifteen inches in height on a road with a speed limit of 56 mph or greater.

If there is insufficient room for copy and graphics of this size in the area allowed, then no dynamic display is allowed.

8. Design. All dynamic displays shall be designed to be an integral part of the overall sign; including color, materials, etc., and in no case may the dynamic display be wider than the remaining portion of the monument sign.

9. Audio. No dynamic display sign may have audio speakers or any audio component.

10. Malfunction. The display must be designed and equipped to freeze the device in one position if a malfunction occurs. The display must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this section.

11. Non-compliance. The Zoning Administrative shall review non-compliance dynamic display signs. If the property owner has not corrected the non-compliance as determined by the Zoning Administrator, the Zoning

Administrator may issue an administrative citation in accordance with the city's administrative enforcement policy and/or the non-compliance shall result in forfeiture of the license, and the city shall be authorized to arrange disconnection of electrical service to the facility.

(f) Time, date and temperature. Time, date or temperature information is considered one dynamic display. A display of time, date and temperature must remain static for 60 seconds when changing to a different display, but the time, date or temperature information itself may change no more often than once every 5 seconds.

(g) Permitting process. The property owner must obtain a license (permit) to operate a dynamic display sign and shall sign a form agreeing to the operation of the sign in conformance to the city's dynamic display regulations. A sign license shall be issued after receipt of an application fee, sign design, site plan, and dynamic display information has been submitted, reviewed and approved by the Zoning Administrator, or its designee.

(D) In a Public and Institutional Zoning District, the following provisions shall apply:

(1) Monument sign.

(a) Location. No part of sign shall be less than ten feet from any property line, driveway or parking lot.

(b) Number. One double-sided monument sign shall be allowed per property.

(c) Area. The sign area cannot exceed 64 square feet in area.

(d) Height. Maximum height of ten feet.

(e) Design. Electronic message signs can be included as part of the overall sign design. Message signs shall not exceed 50% of the overall area of the identification sign. The sign may be illuminated, but no flashing. Only non-commercial messages are permitted to be displayed on the sign.

(2) Wall sign - location. Wall signs shall be permitted on one wall, except in the cases of buildings located on corner lots, or through lots which shall be allowed wall signage on the same number of walls as street frontage.

(3) Community park/playfield advertising signs.

(a) The Park Board reviews each proposal and makes a recommendation to the City Council.

(b) The City Council shall hold a public hearing and notify any property owner within 500 feet of the proposed sign locations.

(c) The number, location, and materials of advertising signs for each proposal shall be determined on an individual basis, and shall be based on the park layout, natural surroundings, and potential visual impact to surrounding properties and scenic views.

(d) To the extent possible, signs shall only be installed during the playing season for which the signs are intended.

(e) The city shall have the right to remove signs if they are not properly maintained as necessary for public health, safety and welfare, all as determined by the City's Zoning Administrator.

(f) All profits generated by the advertising signs shall be allocated to capital improvements of the park in which the signs are located.

(g) A written agreement shall be prepared by the city to be signed by the city and all involved parties, identifying the parameter of the advertising signs and responsibilities of maintenance and financing for the advertising signs.

(E) Planned unit development districts. Within a planned unit development district regulated by § 155.496 of this chapter, sign allowances shall be based upon the individual uses and structures within the development in compliance with the standards applied for the conventional zoning district where such uses are allowed, unless otherwise defined in the planned unit development agreement.

(F) Temporary and special event signs shall be allowed subject to the following regulations:

(1) In the residential zoning districts, not more than one special event sign may be located on any one lot or parcel at any time. The area of the special event sign shall comply with the regulations set forth in § 155.496(B)(1).

(2) In all other zoning districts:

(a) Number. No more than one temporary or special event sign per street front may be located on any one lot or parcel at any time.

(b) Size. The sign area shall not exceed 32 square feet on each side where the speed limit of the adjacent road is less than 45 miles per hour. The sign shall not exceed 64 square feet on each side in an area where the speed limit of the adjacent road is 45 miles per hours or greater;

(c) Location. Temporary signs must be located on the premises which is the subject of the temporary sign and must contain only messages related to said premises. For premises with multiple users or tenants, signs must be located a minimum of 100 feet apart. Special event signs may be located on or off-premise of the special event. When a special event sign is located off-

premise, the number of days it is displayed shall count toward the 90 days that are allowed for the property the special event sign is located upon.

(d) Duration. A temporary or special event sign may be displayed for a cumulative total of 90 days per calendar year. A temporary or special event sign permit is required to be obtained prior to displaying the sign. A temporary sign may be displayed for a maximum of 30 additional days if it coincides with the grand opening of a business.

(Ord. 0701, passed 1-9-07; Am. Ord. 0703, passed 7-10-07; Am. Ord. 0807, passed 10-14-08; Am. Ord. 1003, passed 6-8-10; Am. Ord. 1106, passed 8-9-11; Am. Ord. 1401, passed 1-28-14; Am. Ord. 1603, passed 3-8-16; Am. Ord. 1604, passed 5-10-16; Am. Ord. 1605, passed 8-9-16; Am. Ord. 1704, passed 10-24-17; Am. Ord. 1705, passed 12-12-17; Am. Ord. 1801, passed 3-27-18; Am. Ord. 1806, passed 10-23-18; Am. Ord. 1901, passed 1-8-19; Am. Ord. 1902, passed 5-14-19; Am. Ord. 2001, passed 7-14-20)

§ 155.497 RESERVED.

§ 155.498 PERMITS REQUIRED, INSPECTION AND REMOVAL.

(A) Except as provided in § 155.494 no sign or structure shall be erected, constructed, altered, rebuilt or relocated until a permit has first been approved by the Zoning Administrator and issued by the Building Official.

(1) Sign application. The following information for a sign permit shall be supplied by an applicant upon submission of a sign permit application:

(a) Name, address and telephone number of person making application.

(b) Name, address and telephone number of person owning sign.

(c) The name, address, telephone number and signature of the person owning the property upon which the sign is to be located.

(d) A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.

(e) Plans, location and specifications and method of construction and attachment to the buildings or placement method in the ground.

(f) Landscape plans for area around signs.

(g) Written consent of the owner or lessee of any site on which the sign is to be erected.

- (h) Any electrical permit required and issued for the sign.
- (i) Future maintenance plans.
- (j) Sign value.
- (k) The applicant shall certify that the application is in full compliance with this chapter and all other applicable provisions of the City Code.

(2) Application processing and action.

(a) Within 15 working days of receiving an application for a sign permit, the Zoning Administrator shall review it for completeness. If the application is complete, it shall then be processed. If the Zoning Administrator finds that it is incomplete, the Zoning Administrator shall, within such 15 working day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of the City Code.

(b) Upon receipt of a complete application, the city shall review and comment upon application and shall either:

1. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of the City Code.
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of the City Code.
3. In case of a rejection, the Zoning Administrator and/or Building Official shall specify in the rejection the section or sections of the City Code with which the sign(s) is inconsistent.
4. If the work authorized under a permit has not been initiated within 60 days after the date of issuance, the permit shall be null and void.

(3) Fees. Fees for the review and processing of sign permit applications shall be imposed in accordance with the fee schedule as adopted by City Council.

(B) Inspection. All signs shall be subject to inspection by the Zoning Administrator and/or Building Official.

(C) Removal of signs.

(1) The Zoning Administrator and/or Building Official shall order the removal of any illegal non-conforming sign erected or maintained in violation of the City Code. Notice in writing shall be given by the city to the owner of such sign, or of the building, structure or property on which such sign is located, to remove the sign or to bring it into compliance with the

provisions of §§ 155.490 through 155.500 within 15 days from the date of said notice.

(2) Upon failure to remove the sign or to comply with this notice, the city may remove the sign. Any costs of removal incurred by the city shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and all costs shall be assessed against the property.

(3) The Zoning Administrator and/or Building Official may order the immediate removal of any sign without notice, which is in violation of any of the following:

(a) Signs located within the public right-of-way.

(b) Temporary signs that have exceeded the time limits allowed in §§ 155.490 through 155.500.

(c) The condition of the sign is such as to present an immediate threat to the safety of the public.

(Ord. 0701, passed 1-9-07)

§ 155.499 NON-CONFORMING SIGNS AND USES.

(A) Non-conforming signs. Any non-conforming on-premise sign lawfully existing upon the effective date of the adoption of §§ 155.490 through 155.500 may be continued at the size and in the manner existing upon such date, subject to the following provisions:

(1) Maintenance and repair. Nothing in §§ 155.490 through 155.500 shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the requirements of §§ 155.490 through 155.500 regarding safety, maintenance, and repair of signs, provided that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy it in any way which makes it more non-conforming, or the sign shall lose its legal non-conforming status. Illegal, non-conforming signs shall be removed by the property owner within ten days of notice from the city.

(2) Prohibited alterations. A non-conforming sign may not be:

(a) Structurally altered except to bring it into compliance with the provisions of §§ 155.490 through 155.500.

(b) Enlarged.

(c) Re-established after its removal or discontinuance.

(d) Repaired or otherwise restored, unless the damage is to less than 50% of the sign structure value as determined by the Zoning Administrator.

(e) Replaced (applies to structure only and not message).

(B) Non-conforming uses. When the principal use of land is legally non-conforming under this chapter, all existing or proposed signs in conjunction with that land, unless otherwise provided for by the City Code, shall be considered conforming if they are in compliance with the sign provisions for the zoning district in which the principal use is allowed.

(Ord. 0701, passed 1-9-07)

§ 155.500 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of §§ 155.490 through 155.500 is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of §§ 155.490 through 155.500. The City Council hereby declares that it would have adopted §§ 155.490 through 155.500 irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

§ 155.998 VIOLATIONS AND ENFORCEMENT.

Except as otherwise provided, this chapter shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. Except as otherwise provided, the Zoning Administrator may institute in the name of the city any appropriate actions or proceedings against a violator as provided by statute, chapter, or ordinance.

(Ord. 110, passed 11-15-97) Penalty, see § 155.999

§ 155.999 PENALTY.

(A) Except as otherwise provided, any person who violates any of the provisions of this chapter shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. 110, passed 11-15-97)

(B) A violation of § 155.490 et seq. shall be a misdemeanor, punishable according to law. Each day that a violation is permitted to exist shall

constitute a separate offense. In addition thereto, the city may seek injunctive relief in the County District Court to require conformance with § 155.490 et seq. All costs and reasonable attorney fees incurred by the city in enforcing the provisions of § 155.490 et seq. shall be paid by the violator of those sections.

(Ord. –, passed 11-25-97)

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